

S F

THE
Present State

OF
VIRGINIA,
MEMORANDUM

AND THE
COLLEGE:

BY

Messieurs

CHARTWELL
BLAIR, and

CHILTON

To which is added,

The CHARTER for Erecting the
said COLLEGE, granted by their
late Majesties King WILLIAM and
Queen MART of Ever Glorious and
Pious Memory.

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MEMORANDUM

Henry Hartwell Esq; was bred up in the Offices; and when he signed the following Account, was one of his Majesties Honourable Council of *Virginia*.

The Reverend Mr. *James Blair* you will find often mentioned in the Book.

Edward Chilton Esq. was a Practitioner of the Law, and his Majesties Attorney-General in *Virginia*, and the same afterwards in *Barbadoes*.

48

10

11

43.



THE CONTENTS.

- I. **O**F the natural Advantages of the Country. p. 1
- II. Of the several Sorts of Inhabitants and Cultivation of Virginia. p. 6
- III. Of Land, how it is taken up, Lapses and Escheats. p. 15
- IV. Of the Governor. p. 19
- V. Of the Council. p. 31
- VI. Of their Laws, and Legislative Power. p. 38
- VII. Concerning the Administration of Justice. p. 43
- VIII. Concerning the Secretary's Office. p. 48
- IX. An Account of all publick Money and Tobacco, and present State of the Revenue. p. 51
- X. Concerning the Militia and other Forces. p. 62
- XI. Concerning the Church and Religion. p. 64
- XII. Concerning the College. p. 67

To which is added,

- XIII. The Charter for erecting the College, granted by King William and Queen Mary. p. 72

THE CONTENTS

- I. Of the natural Advantages of the Country. p. 1
- II. Of the several Sorts of Inhabitants and Cultivation of Virginia. p. 6
- III. Of Land, how it is taken up, Landed and Elected. p. 12
- IV. Of the Governor. p. 19
- V. Of the Council. p. 31
- VI. Of their Laws, and Legislative Power. p. 38
- VII. Concerning the Administration of Justice. p. 43
- VIII. Concerning the Secretary's Office. p. 48
- IX. An Account of all publick Money and Tobacco, and present State of the Revenue. p. 51
- X. Concerning the Militia and other Forces. p. 62
- XI. Concerning the Church and Religion. p. 64
- XII. Concerning the College. p. 67

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- XIII. The Charter for erecting the College, granted by King William and Queen Mary. p. 72



AN
ACCOUNT
OF THE
Present State
AND
GOVERNMENT
OF
VIRGINIA.

SECT. I.

Of the Natural Advantages of the Country.

It is astonishing to hear what contrary Characters are given of the Country of *Virginia*, even by those who have often seen it, and know it very well; some of them representing it as the best, others as the worst Country in the World. Perhaps they are

General
Character
of Virginia

Natural
Good.

Improved
bad.

Causes of
its Misery.

both in the Right. For the most general true Character of *Virginia* is this, That as to all the Natural Advantages of a Country, it is one of the best, but as to the Improved Ones, one of the worst of all the *English* Plantations in *America*. When one considers the Wholsomeness of its Air, the Fertility of its Soil, the Commodiousness of its navigable Rivers and Creeks, the Openness of its Coast all the Year long, the Conveniency of its Fresh Water Runs and Springs, the Plenty of its Fish, Fowl, and wild Beasts, the Variety of its Simples and Dying-Woods, the Abundance of its Timbers, Minerals, wild Vines and Fruits, the Temperature of its Climate, being situated betwixt the Extremities of both Heat and Cold; in short, if it be look'd upon in all Respects as it came out of the Hand of God, it is certainly one of the best Countries in the World. But on the other Hand, if we enquire for well built Towns, for convenient Ports and Markets, for Plenty of Ships and Seamen, for well improv'd Trades and Manufactures, for well educated Children, for an industrious and thriving People, or for an happy Government in Church and State, and in short, for all the other Advantages of human Improvements, it is certainly, for all these Things, one of the poorest, miserablest, and worst Countries in all *America*, that is inhabited by Christians.

It is a common Saying among themselves, that if any other Nation had had *Virginia*, but the *English*, they would have made it an happy

happy Country but it is easier to see their Misery, than to find out the Causes of it. No Doubt it is chiefly to be imputed to the first wrong Measures that were taken in not seating them in Towns, and to the narrow, selfish Ends of most of their Governors, who go easily into any Projects whereby they may make a present Gain, but very difficultly into the expensive and generous Undertakings of doing Good amongst them, which seldom turn to a present, or to a quick Account. But after all, perhaps as much is to be imputed to the Obstinacy of the People, as to any other Mismanagements, as will be seen in the Sequel of this Narrative, which will discover a sad Truth, viz. That the bringing the People of that Country to the Improvements of Cohabitation, must be against their Will by Virtue of the King's Prerogative, and not by expecting the Concurrence of their General Assemblies, the major Part of the Members whereof having never seen a Town, nor a well improv'd Country in their Lives, cannot therefore imagine the Benefit of it, and are afraid of every Innovation that will put them to a present Charge, whatever may be the future Benefit.

It is impossible to reckon up all the Improvements which might be made in such a Country, where many useful Inventions would present themselves to the Industrious. The following ones are such as naturally offer to any judicious Spectator.

The Manufacture of Iron and other Minerals, with which that Country, to all Ap-

*Natural
Advanta-
ges of the
Country.*

*Minerals
and Stones.*

The Present State and

pearance, is well stored, together with all the Advantages of Wood to burn them, and Water to make the Carriage easy. They have likewise in several Places a great deal of curious transparent Stone, finer than Marble, which, together with the Iron and Minerals, might be carried for *England* as Ballast for Ships, and so of little or no Freight.

Silks.

It is a good Country for the Manufacture of Silks; for Mulberry-Trees, the proper Food for Silk-Worms, thrive as well there, as any Tree whatsoever, and a great deal of this Work being the feeding of the Worms, and winding off of the Silk, might be perform'd by Negro Children, that are now so many useless Hands. A Plant likewise call'd *Silk-grass*, out of which several fine Things might be made, is there in great Plenty.

Potash.

It is likewise very fit for Potash for Soap, by reason of the infinite Number of Trees, which make that Country more to resemble a Forrest, than one of the Countries of *Europe*.

*Materials
for Ship-
ping.*

It abounds also in Pitch, Tar, Rosin, Masts, and all Timbers for Shipping, which the *Bristol* Men being sensible of, make use of the Opportunity to build Ships there at very easy Rates.

Grain.

Wheat, Rice, Indian Corn, Oats, Barley, Pease, and many other Sorts of Pulse grow there in great Plenty, and are very useful for the Supply of Barbadoes, and the other Leeward Islands, as also of *New-England*, which produces very little Wheat or Indian Corn, the Frost of late Years often taking it before it is ripe. That

Government of VIRGINIA.

That Country has also great Advantages for the making of Cyder, Wine, Oil, distill'd Spirits, Figs, Raisins, and conserved Fruits, the Country producing huge Quantities of the best Apples, Pears, Peaches, Quinces, Cherries, Strawberries, Mulberries, Rasberries, Putchamins, and Melons, and abounding every where with several Sorts of wild Grapes; the Woods also bringing good Store of Chesnuts, Wallnuts, Hickerynuts, Chincopins, and other Shell-Fruit of a very oily Substance.

Flax, Hemp, and Cotton grow there very fine.

Here might be a great Trade for Sturgeon, Drums, Sheepheads, and several other Fish, as also for Whales.

There might be a vast Indian Trade for Skins and Furrs carried on there, they lying near a great many Indians to the West and South-West.

It is an excellent Country for Dying-Stuff, and curious Simples, as also for several other curious Woods us'd in Wainscoting and Cabinet, such as Cedar, Cypress, Sassafras, Blackwalnut, &c.

In many Places of that Country there is great Store of the Myrtleberries, which being boyled up to a Wax, make as good Candles as the best Wax Candles whatsoever, the Snuff whereof instead of stinking, does really perfume like Incense.

We need not mention Tobacco, which would likewise be an excellent staple Commodity of that Country, if they would

make it good without Trash, but so it is at present that Tobacco swallows up all other Things, every thing else is neglected, and all Markets are often so glutted with bad Tobacco, that it becomes a meer Drug, and will not clear the Freight and Custom.

S E C T. II.

Of the several Sorts of Inhabitants, and Cultivation of Virginia.

SO much for the natural (we cannot say Commodities, but) Disposition and advantageous Circumstances of the Country.

Country
uncultiva-
ted.

But now if it be enquir'd what sort of a Country it is after all this, we must represent it after a quite different Manner from what might be expected from the first and eldest of all the *English* Plantations in *America*. As to the outward Appearance, it looks all like a wild Desert; the High-Lands overgrown with Trees, and the Low-Lands sunk with Water, Marsh, and Swamp: The few Plantations and clear'd Grounds bearing no Proportion to the rough and uncultivated.

Inhabi-
tants.

The Inhabitants are of three Sorts, Planters, Tradesmen, and Merchants.

Tho

Tho' the Planters are the most numerous, *Planters,* perhaps not the hundredth Part of the Country is yet clear'd from the Woods, and not one Foot of the Marsh and Swamp drained. As fast as the Ground is worn out with Tobacco and Corn, it runs up again in Underwoods, and in many Places of the Country, that which has been clear'd is thicker in Woods than it was before the clearing. It is but in very few Places that the Plough is made use of, for in their first clearing they never grub up the Stumps, but cut the Trees down about two or three Foot from the Ground; so that all the Roots and Stumps being left, that Ground must be tended with Hoes, and by that time the Stumps are rotten, the Ground is worn out; and having fresh Land enough, of which they must clear some for Fire-Wood, they take but little Care to recruit the old Fields with Dung. Of Grain and Pulse they commonly provide only as much as they expect they themselves shall have Occasion for, for the Use of their Families, there being no Towns or Markets where they can have a ready Vent for them, and scarce any Money to serve for a common Exchange in buying and selling. The only Thing whereof they make as much as they can, is Tobacco; there being always a Vent for that at one Time of the Year or other; besides that their Want of Cloaths and Household-Furniture, and all their other Necessaries, instigate them to make as much Tobacco as they can, this being the Money of that Country which An-

swers all Things. But the great Labour about Tobacco being only in Summer time, they acquire great Habits of Idleness all the rest of the Year.

Tradesmen

For want of Towns, Markets, and Money, there is but little Encouragement for Tradesmen and Artificers, and therefore little Choice of them, and their Labour very dear in the Country. A Tradesman having no Opportunity of a Market where he can buy Meat, Milk, Corn, and all other things, must either make Corn, keep Cows, and raise Stocks himself, or must ride about the Country to buy Meat and Corn where he can find it; and then is puzzled to find Carriers, Drovers, Butchers, Salting, (for he can't buy one Joynt or two) and a great many other Things, which there would be no Occasion for, if there were Towns and Markets. Then a great deal of the Tradesman's Time being necessarily spent in going and coming to and from his Work, in dispers'd Country Plantations, and his Pay being generally in straggling Parcels of Tobacco, the Collection whereof costs about 10 *per Cent.* and the best of this Pay coming but once a Year, so that he cannot turn his Hand frequently with a small Stock, as Tradesmen do in *England* and elsewhere, all this occasions the Dearth of all Tradesmen's Labour, and likewise the Discouragement, Scarcity, and Insufficiency of Tradesmen.

Merchants

The Merchants live the best of any in that Country, but yet are subject to great Inconveniencies in the way of their Trade, which might

might be avoided, if they had Towns, Markets, and Money. For first they are obliged to sell upon Trust all the Year long, except just a little while when Tobacco is ready. 2^{dly}, They likewise drive a pityful retail Trade to serve every Man's little Occasions, being all in Effect but Country Chapmen, for want of Towns to be a Center of Trade and Business. 3^{dly}, Besides the Charge of it, they are necessitated to trust all their Concerns to their Receivers, who go about among the Planters that owe them Tobacco, and receive and mark it for them, which Receivers, if they want either Skill or Honesty, prove very fatal to the Merchant. 4^{thly}, They are at the Charge of carting this Tobacco, so mark'd and receiv'd, to convenient Landings; or if it lyes not far from these Landings, they must trust to the Seamen for their careful rolling it on board of their Sloops and Shallops; and if the Seamen roll it in bad Weather, or dirty Ways, it is expos'd to a great deal of Damage. 5^{thly}, It is a great while before the Ships can be loaded, their Freight lying at such a Distance, and being to be brought together in this scrambling Manner. By Reason of this it is an usual thing with Ships to lye three or four Months in the Country, which might be dispatch'd in a Fortnight's Time, if the Tobacco were ready at certain Ports; and this inhances the Freight to almost double the Price of what it needed to be, if the Ship had a quick Dispatch.

In

Towns
aimed at

Ineffectual,
and
why.

In *New-England* they were oblig'd at their first Settlement to settle in Towns, and would not permit a single Man to take up Land, till a certain Number of Men agreed together, as many as might make a Township; then they laid them out a Town, with Home-Lots for Gardens and Orchards, Out-Lots for Corn-Fields and Meadows, and Country-Lots for Plantations, with Overseers, and Gangs of Hands, which would have prov'd an excellent Way in such a Country as *Virginia* is. But this Opportunity being lost, they seated themselves, without any Rule or Order in Country Plantations, and being often sensible of the Inconveniences of that dispers'd way of living, their General Assemblies have made several Attempts to bring the People into Towns, which have prov'd all ineffectual. One Error has generally run through all these Undertakings, viz. That they always appointed too many Towns, which will be still the Fault of them, if they are contriv'd by a General Assembly; for every Man desiring the Town to be as near as is possible to his own Door, and the Burgesses setting up every one of them for his own County, they have commonly contriv'd a Town for every County, which might be reasonable enough hereafter, when the Country comes to be well peopled, but at present is utterly impracticable for want of People to inhabit them, and Money to build them. And therefore we cannot but think the Governor and Assembly of *Mary-Land* have taken a much wiser

wiser Course, who in their Law for Towns, have order'd only two Towns in that whole Province, viz. one on the eastern, and another on the western Shore. So perhaps two or three Towns in *Virginia* would be enough at first; the Country might add more afterwards, as they encrease in Wealth and People. Another Error they ran into in their last Law for Towns, was, that they made it unlawful to buy or sell any Goods exported or imported, but at these Towns, under no less a Penalty than the Forfeiture of Ship and Goods, which was a great Force upon Trade, and would have made all People very uneasy at present; tho' on the other hand there is this to be said for it, that their Merchants being already seated with their Stores in their Country Plantations, and having their Customers all round about them, without some considerable Force could not be induced to leave all these, and to come and live in Towns. Some are of Opinion that the King's constituting Ports for Exportation and Importation would do the Business, i. e. would bring the Trade to these Ports, and perhaps it would at the Long-run; for all that set up for Merchants after such a Constitution of Ports, would probably set up at these Places. but it would be a long Time before the old Merchants, who are in the present Possession of the Trade, would be perswaded to leave their Country-Houses and Stores, to come and live at Towns. Perhaps if there were great Care taken to encourage these Port-Towns with Privileges and Immunities,

nities, and likewise to discourage the Coun-
 try Stores, the Thing would quickly be more
 effectual. However it is, *hoc opus, hic labor*
est, if Towns and Ports can be brought to
 bear, the chief Obstruction to the Improve-
 ment of that Country will be removed. It
 is certain that little Help towards it is to
 be expected from their General Assembly,
 except they should come to have a Gover-
 nor in whom they have a most mighty Con-
 fidence that he acts for the publick Good;
 which was the Case in Governor *Nicholson's*
 Time, when we see they were not only wil-
 ling to have Towns, but to force them with
 many visible Inconveniencies. But for their
 own Temper, they shew'd it as soon as he
 was gone, *i. e.* they are daily more and more
 averse to Cohabitation; the major Part of
 the House of Burgesses consisting of *Virgi-*
nians that never saw a Town, nor have no
 Notion of the Conveniency of any other
 but a Country Life: As a Proof whereof
 perhaps it may not be unfit to give an Ac-
 count of an Argument which was brought
 against Towns by an ingenious *Virginian*,
 who had never been out of the Country:
 His Argument was this, " That they might
 " observe already, wherever they were thick
 " seated, they could hardly raise any Stocks,
 " or live by one another; much more, con-
 " cluded he, would it be impossible for us
 " to live, when a matter of an hundred Fa-
 " milies are coop'd up within the Compass
 " of half a Mile of Ground,

The

The want of Money, which is another *Money wanting; and why.* great Obstruction of their Improvement, is chiefly occasion'd by the Governor who finds it his Interest to encourage the Tobacco, and discourage the Money Dealings, for by that Means he has as much of his Salary as he pleases paid him in Bills of Exchange, which is better for his Use to lay up in *England*, than that Country Money, being commonly Pieces of Eight at five Shillings. Then for whzt he wants to buy in the Country, he can buy it much cheaper for Quit-Rent Tobacco, than for Money; *e. g.* an Ox which would cost him fifty Shillings or three Pounds, he can buy for six hundred Pounds of Tobacco, which he buys of the King at four Shilling or Four and Sixpence the Hundred, so that he hath the Ox for about half Price of what it would cost him in Money. The Governor thus discouraging Money-Dealings, the Auditor is very scrupulous of taking Money of the Collectors, and the Collectors of the Merchants, and the Merchants of the People, and the People of one another; this being all a natural Chain of Consequences: For the Auditor has little Occasion for Money, but to pay it to the Governor, nor the Collectors but to pay it to the Auditor, nor the Merchants but to pay it to the Collectors, for the two Shillings an Hoghead; nor the People but to pay it to the Merchants for such Things as they have Occasion for; so that a positive Instruction that the two Shillings *per* Hoghead should be paid in Money, would cure all this, especially

Standard
of Money
in Ameri-
ca.

especially if the Value of Money were ascertain'd. Pieces of Eight are ascertain'd by Law at five Shillings, but that Law is very imperfect, for there being no Weight assign'd, they scruple a light Piece of Eight, alledging it is clipp'd, or a *Peru* Piece, as not being good Silver; and no other Coin is at all ascertain'd, except *English* Money, of which there is very little in the Country. "Last
" Assembly the House of Burgeses sent up a
" Bill for ascertaining all Coin, but it was
" thrown out in the Council, without so
" much as desiring a Conference about it,
" or offering any Amendments." It were
good there were some common Standard of
of Money establish'd all over the *English*
Plantations of *America*; for *Pensilvania* en-
hancing the Price of Money, and ordering
a small Piece of Eight of twelve penny-weight
to go for six Shillings, and so still for more,
according to its Weight, does by that Means
drain all the Money from *Virginia* and *Mary-*
land; the best Piece of Eight going in *Vir-*
ginia for five Shillings, and in *Maryland* for
four and Sixpence.

SECT. III.

S E C T. III.

Of Land ; viz. How it is taken up. Lapses
and Escheats.

TH E Method settled by the King from the *Land, how*
first seating of that Country, was to al- *given.*
lot 50 Acres of Land to every one that should
adventure into that Country ; which, if it
had been punctually observed, would have
been a lasting Encouragement to Adventurers,
till the Country had come to be well peopled ;
but as the Matter has been managed, the Land
is now gone from the King, and yet the Coun-
try but very ill peopled. The first great Abuse *Abuse.*
of this Design, was by the Ignorance and
Knavery of Surveyors, who often gave out
Draughts of Surveys, without ever actually sur-
veying it, or ever coming on the Land ; only
they gave the Description, by some natural
Bounds, and were sure to allow large Measure,
that so the Persons for whom they survey'd
might enjoy larger Tracts of Land, than they
were to pay quit Rent for. Then all Courts
were very lavish in allowing Certificates for
Rights ; for if a Master of a Ship came into
any Court, and made Oath that he had im-
ported himself and so many Seamen and Pas-
sengers at divers Times into the Country,
and that he never elsewhere made Use of
those Rights ; he had presently an Order grant-
ed him for so many Rights, (*i. e.* so many Times
50 Acres of Land) and these Rights he would
sell

sell and dispose of for a small Matter. Perhaps the same Seamen made Oath that they had adventur'd themselves so many Times into the Country, and had not elsewhere prov'd their Rights, and upon this they had an Order for so many Rights *toties quoties*. The Masters likewise that bought the Servants so imported would at another Court make Oath that they had bought so many Persons that had ventur'd themselves into the Country, and upon this so many Rights were order'd them: So that still the Land went away, and the Adventurers themselves who remain'd in the Country, for whom it was originally designed, had the least Share. Then great Liberty was used in issuing out Certificates for Rights, by the Country Clerks, and especially by the Clerks of the Secretary's Office, which was and is still a constant Mint of these Rights, where they may be purchased at very easy Rates, of the Clerks, from Five Shillings to one Shilling per Right.

These Things were not unknown to the Government, who connived at them, thinking it a very pardonable Crime, that the King's Land was given away to People that really and truly had no Right to it, since by this Means the Land was taken up, and so the King had so much more Quit-Rents pay'd him, whereas that which was not taken up, paid nothing. But they little consider'd that the small Profit which comes by Quit-Rents, doth not ballance the great Damage of leaving the Country without Inhabitants, which is the Effect of the Methods they have followed,

Want of
People.

ed, for the King and Kingdom of *England*, gain Profit of near 200 Times as much by an ordinary Planter as the King would have got by the Quit-Rents of the 50 Acres he should have had, which may be made out thus: An usual Crop of Tobacco for one Head, is 2000 Pounds Weight; which, at Six-Pence per Pound, the present Duty in *England*, amounts to 50 Pounds. Then supposing this 2000 Pounds of Tobacco to be put into 3 Hogsheads, here is Six Shillings of *Virginia* Duty to the King, by the 2 Shillings per Hogshead; then the Freight of this at Eight Pounds per Tun comes to Six Pound, which is commonly paid into *England*, in all 56 Pounds, 6 Shillings; besides the Increase of Ships and Seamen, and the Multitudes maintain'd by the Manufacture of Tobacco here in *England*, and the Manufacture of *English* Goods sold to the Planters. To find out, on the other Hand, how many Acres of Land it will require to make up the bare 56 Pounds, Six Shillings out of the Quit-Rents of it in Quit-Rent Tobacco, sold communibus annis at 5 Shillings per Hundred, and 24 Pounds of Tobacco for every Hundred Acres; at that Rate, 56 Pounds 6 Shillings, will purchase 22520 Pounds of Tobacco, which is the Quit-Rent for 93833 Acres of Land; so that one Man's Labour is equivalent to the Quit-Rents of near an Hundred Thousand Acres of Land, which was the Quantity allotted for 2000 Men: Besides, the Quit-Rents would not have been lost, but would have been paid at last, when the Country came to be peopled. This fundamental Error of let-

B

ting

ting the King's Land lye waste, together with another of not seating in Townships, as they did in some other Colonies, is the Cause that *Virginia* at this Day is so badly peopled.

Seating
and Plant-
ing.

Every one that takes out a Patent for any Dividend or Tract of King's Land, is, in the Patent, oblig'd to two Things. One is to seat or plant upon it within 3 Years after the Date of the Patent, otherwise it lapses again to the King. The other is, to pay the Quit-Rents, at the Rate of a Shilling for every 50 Acres *per Annum*. Seating, by their Law, is reckon'd the Building of an House, and *How slight*, keeping a Stock one whole Year. They matter not how small an House it is; if it be but an Hog-House it serves the Turn; and Planting, their Law reckons the planting and tending one Acre of Ground, it is no Matter how badly, and either of these; *viz.* either seating or planting, within the three Years, saves the whole Tract, if it be never so large, which is the Cause, that, tho' all the good Land of the Country is taken up, yet there is very little Improvement on it.

Laps'd
Lands.

The Land which is neither seated nor planted within the three Years, lapses to the King, and it is call'd lapsed Land, but it never comes into the King's Hands, being due, by their Law, to any one that first petitions the general Court for it.

Escheat
Land.

When a Man dies seiz'd of Land in Fee, without Will or Heirs, such Land escheats to the King. The Way of disposing of it is thus, The Person in Possession hath, by the King's Charter, the Right of the Grant: But, of late,

late, it depends on the Governor's Favour, who, among the several Petitions that are presented to him, for the Benefit of the Escheat, accepts of any one he pleases, and underwrites it thus. *This Petition is granted, paying Composition to the Auditor, according to Law.* Then a Warrant issues from the Governor, to the Escheater of the Precinct, who makes Inquisition, and finds the Office by a Jury of 12 Men. Which Inquisition being return'd by the Escheater to the Secretary's Office, lies there 9 Months, that any Person concern'd may come and traverse the Office, and if no body appears in that Time, a Patent passeth according to the Petitioner's Request. The Escheaters Fee is 5 *lib.* Sterling, and the Composition by the Charter is 2 *lib.* of Tobacco *per Acre.*

S E C T. IV.

Of the Governor.

IT being inconvenient and chargeable, in the Infancy of Government, to keep up many Officers, the usual Way is to trust all to one good Governor, who, like a tender Nurse, is sufficient to take the Management of the Infant Government, till it grow older, and wants other Tutors and Governors to look after it.

the Govern-
or is.

All the great Offices in *Virginia* (being then an Infant Government) were at first heaped upon one Man, and, which is stranger, continues so to this Day; for one Man,

1st. Gover-
nor.

As Governor represents the King, in granting his Lands, naming of several Officers to all Places of Trust in the Government, in calling, proroguing and dissolving of Assemblies, which are their Parliaments, in giving or denying his Assent to their Laws, in making Peace or War, and in the whole Grandeur, State and Ceremony of the Government.

2^{dly}. Lieu-
tenant Ge-
neral.

As his Majesty's Lieutenant-General and Commander in Chief, he raises and commands all the Militia and Land-Forces, and appoints all military Officers, by Commission, during his Pleasure. He builds or demolishes what Fortifications he thinks fit, and makes up the Account of the Charge of them.

3^{dly}. Vice-
Admiral.

As Vice-Admiral of the *Virginia* Seas, he takes Account of all Prizes, commands all Ships and Seamen, lays on and takes off Embargoes, and does all other Things that belong to the Admiralty Office.

4^{thly}. Lord
Treasurer.

As Lord Treasurer, he issues out his Warrants for paying all publick Moneys for the Uses of the Government.

5^{thly}. Lord
Keeper.

As Lord Chancellor, or Lord Keeper, he passes under the Seal of the Colony, all Grants, both of Land and Offices, and likewise decides all Causes in Chancery.

6^{thly}. Chief
Judge in
Courts.

As Lord Chief Justice of the King's Bench and Common Pleas, and Lord Chief Baron

Baron of the Exchequer, he sits and presides in a Court which is all those, and so disposes of Men's Lives, Liberties and Properties.

7thly. As President of the Council, he proposes, directs and manages all Consultations at that Board. 7thly. President of the Council.

8thly. As Bishop or Ordinary, he grants all Licenses of Marriages, and Inductions of Ministers, and Signs, Probats and Administrations, and decides all ecclesiastical Causes. 8thly. Bishop.

These being very large Powers, there were at first contrived three several Checks or Restraints upon him, to keep him from abusing them, viz. 1st. The King's Instructions; 2dly. The Council, and 3dly. The general Assembly; which, as the Matter was ordered at first, were real Checks upon the Governors; but they have since found out Ways to evade them all, which we are now going to give an Account of. Checks of the Governor, however evaded.

1st. The Governor's Instructions were wont to be communicated to the Council and general Assembly, and entred on Record, both in the Secretary's Office, and the House of Burges's Book, as being the Measure and Rule of the Governor's Power, and their Guide in all their Advices and Consultations. But it has been the Policy of the late Governors, to keep the Council and all Mankind in the dark as to their Instructions, and to communicate only now and then one, or a Piece of one to a general Assembly or Council as they found it make for their Interest, or help'd them out, in Case of some Difficulty. By this Means, no Man being able 1st. Check of the King's Instructions.

to accuse them, as acting contrary to their Instructions, the Check of the Instructions was evaded; for no body knew them, but some few about *White-hall*, and there all was safe enough, as long as no body from *Virginia* made any Complaint.

ly. Check
the Coun-

2dly. The Governor was appointed to act with the express Advice and Consent of the Council, who at that Time, were named by the King, and held their Place during his Pleasure, and so were, in some Sort, exempted from all Dependence on the Governor. But many Ways were found out, to take off this Check, and such effectual ones, that, instead of being a Check upon the Governor, the Council are now, and always will be (by the present Constitution) at the Devotion of the Governor, and the ready Instruments to advise, act, or execute, not only what he expressly desires, but whatsoever, by any Manner of indirect Notice, they can imagine will serve and please him, be Governor who will. This being one of the most considerable Changes in the Government, it will be worth while to consider by what Steps it was brought about.

aded by
Power.

Of Re-
menda-
tion.

1. Then, The King knowing no body in the Country, it was thought none was fitter to give him right Characters of Men than his Governor, and so that came to be the common Way that Men were recommended to be of the Council; and by this Means the Governor found a Way to keep out all but his own Creatures.

Of Sub-
mitting to
the Num-
ber of 9.

2. There being, at the first seating of the Country, and for several Years afterwards, great

great Sickness and Mortality, whereby it came to pass, that sometimes there were many Vacancies in the Council, from which the Governor represented, the King's Business might suffer in the mean time for want of a sufficient Number of Counsellors. Upon this, a Power was granted to the Governor, if at any time the Number fell under Nine, to chuse and swear into the Council to the Number of Nine, and this Power being once obtain'd, the Council was still kept about the Number of Nine or Ten, that so the Governor might supply the Vacancies by Persons of his own chusing.

3. After Bacon's Rebellion in the Year 1676, this Bacon being one of the Council, it was suggested to the King, that if the Governor had had Power to suspend him in time, as soon as he first perceiv'd him to be a Man of a turbulent Spirit, that Rebellion perhaps might have been prevented. Upon this a new Power was conferr'd on the Governor, whereby he might suspend any of the Council at his Pleasure, only transmitting to the King afterwards the Accusations against that Counsellor, and his Answers in Writing.

4. The Council being generally in haste to get home, contented themselves with giving their Opinions upon any Subject that was propos'd to them, leaving it to the Clerk to take the Minutes, and draw up the Orders, but they never saw them fairly drawn, nor heard them afterwards read in Council; the Consequence whereof was, that this Clerk

4. Word-
ing the Or-
ders of
Council.

who was put in by the Governor, and held his Place during his Pleasure, would draw up and word these Orders exactly as the Governor should dictate; nay, such Frauds have been contrived of this Nature, that not only the true Orders have been misrepresented, and drawn to a Sense that never was intended by the Council, but also new Orders have been fram'd quite contrary to what has been voted and agreed to by the Council-Board.

5. Confer-
ring Places
of Profit
on the
Council du-
ring Plea-
sure.

5. But that which finish'd this great Work of subjecting the Council to the Governor's Pleasure, was, the Power he had of bestowing all the Places of Trust and Profit in the Government, and the Secret he found of bestowing them all upon the Council, howsoever inconveniently they might live for them, and that only during his own Pleasure. This was the infallible Means of obliging the Council to their good Behaviour, and not only of delivering himself from all Curb and Restraint from them, but of gaining all their Power as an Addition to his own. The Places he has to bestow upon them, are the eight Collectors, and as many naval Officers Places, and the four Escheators, all which he gives during Pleasure; besides the Secretary's and Auditor's, who are nominated in *England*, but by his Recommendation. They are likewise admitted to farm the Quit-Rents of a County or two that lyes most convenient for them, which, tho' it is not a certain Place, yet it is a certain yearly Profit and Favour.

This

Government of VIRGINIA.

25

This is the true Account of the Subjection of the Council to the Governor, which hath made such a mighty Alteration in the Face of that Government, that the Governor has all the Council's Power more absolutely at Command, than if it had been invested in himself alone by the King: For had he the whole Power in himself, he could but order what he pleases, and that he does now; but then he would take Care to let nothing be done but what he could be accountable for, and would have nothing to cloak and excuse him; whereas now, if any thing is amiss, he can still say it was done by the Advice of the Council, and so has them to screen him, both from the Displeasure of the King, and the Odium of the People, which is so great a Conveniency, that it is not likely he would wish to be more absolute in that Respect if he could.

Use of the Council to the Governor.

3dly, The General Assembly was a great Restraint upon both Governor and Council for many Years after the Settlement of Virginia, viz. till the Lord Culpeppers Government, about the Year 1680; for till that Time an Appeal lay from the General Court, which consisted of the Governor and Council, to the General Assembly, and there was always a Committee of private Causes, as it was called, chosen by the House of Burgesses, and joined to a Committee of the Council, wherein the Burgesses were at least treble the Number; and this Committee decided all such Causes as came before them by Appeal from the General Court. But there

3dly, The Check of the General Assembly evaded.

By taking away Appeals to them.

there happening a Dispute between the Members of the Council, that were of this Committee, and those of the House of Burgeses, The Burgeses alledging that the Council having given their Opinions in the General Court, ought not to sit on the same Causes again in a Committee of the General Assembly: The Lord Culpepper, who had a singular Dexterity in making Use of all Advantages to his own Interest, did so represent this at the Court of *England*, that he procured an Order from the King to take away all Appeals to the General Assembly, as being inconsistent with the Law and Practice of *England*, and that thenceforth no Appeal should be made from the General Court, but to the King in Council, and that in such Causes only as should exceed 300 *l. Sterling*, and wherein good Security should be given to pay the Principal, with all Costs and Damages. From that Time the Country has groan'd under the arbitrary Proceedings of the General Court, where the Peoples Lives, Liberties, and Estates, are all at the Mercy of one Man, who, whatever Way he inclines, sways the Bench as he pleases; and in case of Injustice or Oppression, there is no Hope of Relief or Remedy, all the Courts of *England* being in one in that Country, and the same Men Judges in all.

By pre-
venting the
General
Assembly's
applying to
the Court
of *England*

The other Way the General Assembly might be look'd upon as a Check to the Governor and Council, is by making Representations of their Complaints and Grievances to the Court of *England*,

But

But Ways likewise have been found to prevent this, and very effectual ones too: For *First*, Whatever is of this Nature will never receive the Assent of the Upper House, which consists only of the Council, for the Reasons above set down, whereby it appears, that in all human Probability the Council will still be devoted to the Governor, be Governor who will; and therefore these Complaints or Petitions can never have so much Weight and Authority, coming only from the House of Burgeses, as if they came from the General Assembly.

Secondly, The Governor has likewise many Ways to make an Interest in the House of Burgeses, at least so far as to keep Things from coming to that Extremity, for first by Means of the Council who are the Commanders in chief of the several Counties, and of the other Officers of the Militia, who are all either named by him, or by the Commanders in chief, he has a great Stroke in the Elections of Burgeses for the Assembly, especially the Justices, who have great Interest in every County, being commission'd by him during his Pleasure, and the Sheriff who takes the Poll being always his fast Friend, as enjoying a good profitable Place by his Gift, together with the Collection of all the Publick, County, and often of the Parish Levy, for all which he has 10 per Cent. This Sheriff's Place being granted anew every Year, either by the Continuance of the old Sheriff, or the Nomination of a new one, is a constant fresh Temptation to a great

great many Pretenders to exert their utmost Skill and Interest in managing the Elections of the Burgeses of their several Counties for the Governor. Then after these two Burgeses are actually chosen, one of them is very apt to be gained by the Hopes of this same Sheriff's Place next Year; or if either of them is a bold Man in the House of Burgeses, the appointing him Sheriff takes him out of the House, and by this Art the Governor can either oblige and gain one of the two Burgeses of a County, or at least lay him aside, that he can do him no Hurt. But, after all, if Oppression that makes Men mad, stirs up such a Spirit in the House of Burgeses, that they go about drawing up any Petition or Address to the King, that may prove to the Disservice of the Governor and Council, it is not to be imagin'd but that the Governor and Council will have some Friends among so many Men, who will give them an Account of it before, by the slow Methods of that House, it can be brought to a Vote, and digested and framed into a Petition: If all the Burgeses can be suppos'd faithfully to keep such a Secret, their Clerk will certainly give the Governor or Council an Account of it; for his is a Place of very considerable Profit, and he enjoys it by the Governor's Gift, during his Pleasure, and would be sure to lose his Place, if he were wanting to his Master's Interest on such an Occasion, (tho' this is an Innovation of the Governor's, for, till King James's Reign, the House of Burgeses had

the

the Nomination of their own Clerk.) The Design being once communicated to the Governor and Council, the first thing that follows, is, an immediate Dissolution of the Assembly, which the Governor has every Minute in his own Power. But if we should suppose, (what will never happen) that both Members and Clerk keep this Intrigue till their Petition is quite finish'd, and perhaps an Agent named to deliver it to his Majesty, and to manage it at the Court of *England*, this being a Business of Charge and Expence, and they, having no Power without the Consent of the Governor and Council to raise any Money upon the Country, if they go about any such Undertaking, must resolve to defray the Charge of it out of their own Pockets.

“ About thirteen Years ago, when the H. C.
“ House of Burgesses had the Nomination
“ of their own Clerk, after several fruitless
“ Applications to the Governor and Coun-
“ cil, they went about a Petition of this
“ Nature to the King, against a new Inven-
“ tion of a Seal made use of by the Lord
“ *Effingham*, who was then Governor, where-
“ by he drew from the Country about 100000
“ Pounds of Tobacco *per Annum*, extraor-
“ dinary Fees; and some other Grievances.
“ It happen'd that the Business took Air a
“ little before the Petition was finish'd and
“ read in the House; whereupon the Go-
“ vernor sent for them by the Messenger
“ to come immediately before him. They
“ knowing

“ knowing that it was to dissolve them, first
 “ sign’d and dispatch’d their Petition, and
 “ order’d their Clerk and one of the Mem-
 “ bers to transmit it to *Whitehall*, (to what
 “ Office we do not remember) and to re-
 “ quest that it might be deliver’d to the
 “ King; which they ventur’d to do. But a
 “ the Effect of it was, that instead of being
 “ deliver’d to the King, the very Original
 “ was sent back to the Lord *Effingham*, to-
 “ gether with an Account how it came to
 “ their Hands. Upon which it was resolv’d
 “ to make Examples of those two Gentle-
 “ men that transmitted it by Order of the
 “ House of Burgeses, to deter others from
 “ the like Attempts; and accordingly one
 “ of them being a Surveyor and Clerk of the
 “ House of Burgeses, was turn’d out of
 “ these Places, and the other being a Law-
 “ yer, was forbid his Practice at the Bar.

From all which it appears plainly how fast
 the Door is shut against the House of Bur-
 geses, if they offer to present any Grievances
 to his Majesty: And for any private Man,
 the Thing is so improper, and the Charge
 so great, as well as the Danger, if he mis-
 carries, and returns into that Country, that
 it will be a rare thing to find any Man that
 has Estate and Courage to go through
 with it.

Governor’s
 Salary.

The Governor’s Salary was for many Years
 but 1000 *l. per Annum*; to which the Coun-
 try added Perquisites to the Value of about
 500 *l. more*. Afterwards the General Assem-
 bly,

bly, by a particular Act for that Purpose, added 200 l. a Year to Sir *William Berkeley's* Salary, and inserted a Clause in the Act, that this should be no President to other Governors. But the Lord *Culpepper*, who was one of the most cunning and covetous Men in *England*, when he came Governor of *Virginia*, perswaded King *Charles II.* to raise the Salary to him, being a Peer, to 2000 l. per Annum, besides Perquisites, and 150 l. per Annum for House-Rent: And as the yearly Return of those Salaries makes them to be much better known and remembred than the first Causes and Occasions of them, this same Settlement has continu'd ever since, and is paid now to Sir *Edmund Andros*, the present Governor, out of the two Shillings per Hogshead given by the Country to the King for the Support of the Government.

Sir *Edmund Andros* went Governor to *Virginia* in the Year 1692.

S E C T. V.

Of the Council.

HA V I N G in the last Paragraph, upon Occasion of the Governor's Management of the Council, spoke several things relating to them, such as their Con-

Constitution, their Number, the Way of their Nomination and Suspension, and framing of their Orders, we shall not now repeat any of these Things, only take it for a Thing fully proved, That by the present Constitution they are, and are ever like to be, Men devoted to the Governor's Service, and not in the least any Check or Restraint upon him; That all their Power, Interest, and Authority, is so much Addition to his, and therefore that it is no Wonder he heaps upon them all the Places of Trust, Honour, and Profit that possibly he can, all these being so many Tyes upon their Affection and Interest, and so many Capacities wherein they are enabled to make suitable Returns of Duty and Obedience. We shall here but just name the several Places these Gentlemen hold, for the particular Accounts of them will come better in under some other Heads of this Narrative.

*Offices held
by the
Council.*

1. *Council of State.*

1. Then, They are the Council of State under the Governor, who always presides; and in the Vacancy of a Governor, and Lieutenant-Governor, the eldest of the Council is President.

2. *Upper-House of Assembly.*

2. They are the Upper House of Assembly, answering to the House of Peers in England.

3. *Judges.*

3. They are by Custom, but without Commission, the supreme Judges (together with the Governor who presides) in all Causes, viz. in Chancery, King's-Bench, Common-Pleas, Exchequer, Admiralty, and Spirituality,

Spirituality, and there lyes no Appeal from them but to the King in Council, as above.

4. They are the Colonels or Commanders in chief of the several Counties, in the Nature of the Lords Lieutenants in England.

4. Lords Lieutenants.

5. They are the Naval Officers, that is, they are entrusted with the Execution of all the Acts of Parliament, and General Assembly about Trade and Navigation, tho' generally great Traders themselves: And in this Capacity they enter, and clear all Ships and Vessels, and exact great Fees of them, to the Value of between 3 and 4 l. Sterling a Vessel.

5. Naval Officers.

6. They are Collectors of the standing Revenue of two Shillings per Hogshead, and Fort-Duties; as also of the Groat a Gallon, or any other accidental Imposts rais'd by the General-Assembly; out of all which they have 10 per Cent. Salary: They are commonly likewise Collectors of the Penny per Pound upon all Tobacco exported from Virginia to the other English Plantations, and are allow'd for this, 20 per Cent. But to this last, they are named by the Commissioners of his Majesty's Customs in England.

6. Collectors.

7. They are the Farmers of the King's Quit-Rents in their several Counties, which are commonly sold to them by the Auditor, with Advice of the Governor, at very easy Rates.

7. Farmers of Quit-Rents.

8. Out of them are chosen the Secretary, Auditor, and Escheators, and if there falls any good Gift of escheated Lands, or good Land belonging to the King to be taken up,

8. Secretary, Auditor, and Escheators.

or any other Favour from the Government, they have the Preference of all other People.

Besides a Freedom from Arrests they have usurp'd, as will be seen under the Head of Administration of Justice.

Council's
Salary.

To defray the Charges of the Council, there is allow'd by the Country, out of the Revenue of the two Shillings per Hoghead, the Sum of 350 *l.* per Annum, which by Law is to be proportion'd by the Governor among the several Gentlemen of the Council, according to their Attendance at general Courts and Assemblies.

The Council meets as often as call'd by the Governor: The Governor and they consist of all Matters of State, and resemble the King and Council in England.

Clerk of the
Council.

The present Clerk of the Council is Mr. Robert Beverly, who, besides Perquisites, has 50 *l.* per Annum Salary, paid out of the two Shillings per Hoghead.

A List of the present Council.

The Coun-
cil.

Ralph Wormley, Secretary,
Collector, and Naval Of-
ficer of Rappahannock Ri-
ver.

When put in.

Col. Richard Lee, Collector
and Naval Officer of the
upper District of Poto-
moke River.

While Sir William
Berkley was Go-
vernor.

Col,

Col. *William Bird*, Auditor. *Ld. Culpepper* Gov.

Col. *Christopher Wormley*, Collector and Naval Officer of the lower District of *Potomake River*.

Col. *Edward Hill*, Collector, and Naval Officer of the upper District of *James River*. *Lord Effingham* Gov.

Col. *Edmund Jennings*, Collector and Naval Officer of *York River*.

Col. *Daniel Park*, Collector and Naval Officer of the lower District of *James River*, and Escheator between *James* and *York Rivers*.

Col. *Richard Johnston*, Escheator between *York* and *Rappahannock Rivers*. *Sir Edm. Andros* Gov.

Col. *Charles Scarborough*, Collector and Naval Officer on the *Eastern Shore*.

Mr. *John Lightfoot*, just come in, we know not if he has any Place.

"In the Year 1693, it being thought fit *Mr. Blair*
 "in *England* that some one representing ^{his Suspension.}
 "the *Clergy of Virginia*, should be of the
 "Council of that Country; accordingly,
 C 2 Mr.

“ Mr. *James Blair*, the Lord Bishop of *Lon-*
 “ don’s Commissary, and President of the
 “ College of *William and Mary* in *Virginia*,
 “ was by the King’s Letter put into the
 “ Council that Year: But upon a frivolous
 “ Occasion, on Pretence that he spoke
 “ Words reflecting on the Governor Sir
 “ *Edmund Andros*, as obstructing the Business
 “ of the College, he was by him suspended
 “ in the Year 1694, without any Process
 “ in Writing, just as the Accounts of the
 “ Government were going to be laid before
 “ the Council. This Suspension being dis-
 “ approv’d at *Whitehall*, was by the King’s
 “ express Warrant to Sir *Edmund Andros*,
 “ taken off in the Year 1695, and in that
 “ Warrant a Clause was inserted, whereby
 “ the said Mr. *Blair* was not only order’d
 “ to be restor’d to the Council, but to con-
 “ tinue so till it appear’d to his Majesty
 “ that he had justly forfeited the good Opi-
 “ nion (he was pleas’d to say) he had of
 “ his Abilities and good Conduct. Upon
 “ this Warrant Mr. *Blair* was immediately
 “ restor’d to his Place in the Council. But
 “ there being an Act of Parliament for pre-
 “ venting Frauds in his Majesty’s Customs,
 “ sent into *Virginia* in order to its Publica-
 “ tion at the same time with this Warrant,
 “ that Act of Parliament was order’d to be
 “ read in Council, just as they were going
 “ to bring in the Accounts of the Revenue
 “ for the Year 1696: After Mr. *Blair* had
 “ taken out his Pass to come for *England*,
 “ and taking Occasion of a certain Clause
 “ in

“ in the said Act, which provides that all
 “ Places of Trust in the Courts of Law, or
 “ what relates to the Treasury of the said
 “ Islands, shall be from the Date of the Act
 “ in the Hands of the native-born Subjects
 “ of England and Ireland, and the said
 “ Islands: The Governor and Council did
 “ thereupon declare Mr. Blair, as being a
 “ native-born Subject of Scotland, incapable
 “ of being a Member of the Council of Vir-
 “ ginia, since the Council are Judges of the
 “ General Court of that Country, and ac-
 “ cordingly voted him out of the Council.

The Multitude of Places held by the
 Council, occasions great Confusion, espe-
 cially in such things wherein the Places are
 incompatible: As when their Collectors Of-
 fice obliges them to inform their Judges Of-
 fice against an unfree Bottom: Or when
 their Honours, as Counsellors, sit upon and
 pass their own Accounts, as Collectors: Or
 when they in different Capacities do both
 sell and buy the King's Quit-Rents: Or
 when the same Man, who as ministerial Of-
 ficer, takes and returns the Inquisitions of
 Escheats, as judicial Officer, gives Sentence
 in point of Law upon the same Office, and
 many other Cases of that Nature.

*Incompati-
 bility of the
 Councils
 Offices.*

“ Mr. *James Blair*, the Lord Bishop of *Lon-*
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 “ nion (he was pleas'd to fay) he had of
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 “ taken out his Pafs to come for *England*,
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“ in the said Act, which provides that all
 “ Places of Trust in the Courts of Law, or
 “ what relates to the Treasury of the said
 “ Islands, shall be from the Date of the Act
 “ in the Hands of the native-born Subjects
 “ of *England* and *Ireland*, and the said
 “ Islands: The Governor and Council did
 “ thereupon declare Mr. *Blair*, as being a
 “ native-born Subject of *Scotland*, incapable
 “ of being a Member of the Council of *Vir-*
 “ *ginia*, since the Council are Judges of the
 “ General Court of that Country, and ac-
 “ cordingly voted him out of the Council.

The Multitude of Places held by the Council, occasions great Confusion, especially in such things wherein the Places are incompatible: As when their Collectors Office obliges them to inform their Judges Office against an unfree Bottom: Or when their Honours, as Counsellors, sit upon and pass their own Accounts, as Collectors: Or when they in different Capacities do both sell and buy the King's Quit-Rents: Or when the same Man, who as ministerial Officer, takes and returns the Inquisitions of Escheats, as judicial Officer, gives Sentence in point of Law upon the same Office, and many other Cases of that Nature.

*Incompati-
 bility of the
 Councils
 Offices.*

C 3 S E C T.

The

SECTION VI.

Of their Laws and Legislative Power.

Law of
England
how far
used in Vir-
ginia.

IT is none of the least Misfortunes of that Country, that it is not clear what is the Law whereby they are govern'd. They all agree in this, that the two Fountains of their Law, are the Laws of England, and the Acts of their own General Assemblies, but how far both or either of these is to take place, is in the Judges' Breast, and is apply'd according to their particular Affection to the Party. Sometimes it is said, that of the Law of England they are only to regard that Part which was in being at the first seating of Virginia, and none of the latter Laws, except where the English Plantations in general, or Virginia in particular, are mention'd. At other times they pretend to observe all the Laws of England; sometimes if there is a Difference between the Law of Virginia and the Law of England, the Virginia Law shall take place, as being suited to their particular Circumstances. At other times the Advantages shall be given on the Side of the English Laws, because the Legislative Power was given them with this Proviso, that they should enact nothing derogatory to the Laws of England, or to the King's Prerogative.

The

The Legislative Power there is lodg'd in the Governor and the two Houses of Assembly.

The Upper House consists only of the Council, who the Governor commonly sits along with them, and directs the Votes and Consultations.

A Clerk belongs to this House of the Governor's Nomination, and during his Pleasure; his Salary is ten thousand Pounds of Tobacco, and Cask every Session.

The Lower House consists of two Burgesses from every County, chosen by the Majority of the Freeholders: James-Town sends likewise one Burgess, and the President and Masters of the College of William and Mary have the Privilege of sending another. These Burgesses chuse a Speaker, and claim the same Privileges, and observe the same Form in their Proceedings with the House of Commons in England.

The Assembly being call'd by the Governor's Writ, and the Election of the Burgesses being made, there is commonly a Court held in every County, call'd the Court of Claims, where all that have any Claim from the Publick are admitted to put in their Claims to their Burgesses, together with their Propositions and Grievances, if they have any, all which the Burgesses carry to the Assembly; and to know the Pressures, Humours, common Talk, and Designs of the People of that Country, perhaps there is no better Way than to peruse the Journals of the House of Burgesses, and of the Com-

mittee of Grievances and Propositions, which is one of the Committees of that House.

Commit-
tees of the
House of
Burgesses.

The House after they have met and chosen their Speaker, proceed next to the Nomination of their Committees, which are usually three, *viz.* 1. The Committee of Elections and Privileges. 2. The Committee of Claims. 3. The Committee of Propositions and Grievances.

Formerly there was a 4th Committee, call'd the Committee of private Causes, of which we have spoke before, as also how it was destroy'd by the Cunning of the Lord Culpepper.

Clerk of
the House
of Burges-
ses.

The Clerk of the House of Burgesses was formerly chosen by themselves, till about the Year 1684, that the Lord Effingham upon Colonel Milner's sending home the House of Burgesses Petition, claim'd the Power of turning him out, and putting another in his room. This has been often since controverted between the Governor and House of Burgesses; the Governor seems at present to have wrung it out of their Hands, by giving a Commission to one they had formerly chosen, *viz.* Mr. Peter Beverley the present Clerk; his Salary is twenty thousand Pounds of Tobacco, and Cask for every Session, besides three hundred Pounds of Tobacco and Cask for every Copy of the Laws made in one Session, which he sends to all the County Courts in the Country, with some other Fees.

Burgess's
Allowance.

Every County Burgess is allow'd by Law one hundred and twenty Pounds of Tobac-

co and Cask *per diem*, to defray his Charges at the General Assembly, together with Man and Horse, if he goes and comes by Land, and Boat and Hands, if he goes and comes by Water, all which is levied upon the County that sends him.

Such Laws as are agreed upon by both Houses, and approv'd by the Governor, (who has a Negative) are Laws *pro tempore*, till the King's Pleasure is known; and of this Nature are most of their Laws, *viz.* such as have not yet been ratify'd by the King, and any one of these can be at any Time repeal'd at the King's Pleasure, but after the Law is ratify'd by the King, no less Authority than that of King and General Assembly can repeal it.

There being a great Scarcity of able Lawyers and wise Politicians in that Country, this has occasion'd that very few of their Laws has been so well drawn and fram'd in the Beginning, but that Experience has discover'd many Errors and Imperfections in them, which they have endeavour'd to patch up and mend with subsequent Laws, and sometimes by repealing the old Law, and making a new one. By this Means the Body of their Laws is now become not only long and confus'd, but it is a very hard Matter to know what Laws are in Force, and what not, several of them having been repeal'd by Proclamation, and several by Act of Assembly: For remedy whereof, several of their General Assemblies have entred upon an useful Design of the Revival of their Laws: But

But the Work is so great, and their other Avocations so many, that they could never yet bring it to any Perfection. And till this Work is finish'd, most of their Laws are like to remain without applying for the Royal Assent.

*Some of
Laws in-
consistent
with Eng-
land,*

We may add, that their Laws want Revi-
sal, not only to bring them into a good Or-
der and Method, but in order to the paring
away several of them that seem inconsistent
with Law and Equity, and are apt to bring
Disparagement on the Legislative Power of
their Country. By a Law in 1663, no Debt
is recoverable in that Country, unless the
Goods for which it became due, be import-
ed thither; so that in case a Man become
bound here, or in any other Part of the
World, for his necessary Subsistence, as
Meat, Drink, Lodging, &c. yet such Obli-
gation is of no Force or Validity there;
nay, tho' the Goods for which the Bond
is past be actually shipp'd on board, and
by some Misfortune perish, either by fall-
ing into the Enemies Hands, or be cast
away upon the Voyage, and tho' the Debtor
become rich after the time. There are se-
veral other Laws of the like Nature,

SECT.

SECT. VII.

Concerning the Administration of Justice.

THE Courts of Justice are not distinct *Mix'd*
as in England, but Causes belonging *Courts.*
to Chancery, King's Bench, Common
Pleas, Exchequer, Admiralty, and Spiritua-
lity, are decided altogether in one and the
same Court: And if any one that appre-
hends himself to be injur'd at Common Law,
would appeal to Chancery, he only desires
an Injunction in Chancery, and has another
Hearing, but before the same Men still.

For deciding of all Causes there are two
Sorts of Courts in the Country, viz. the
County Court, and the General Court.

There is a County Court in every County, *County*
which consists of eight or ten Gentlemen of *Courts.*
the Inhabitants of that County, to whom
the Governor gives a Commission during
Pleasure to be the Justices of the Peace for
that County; he renews that Commission
commonly every Year, for that brings new
Fees, and likewise gives him an Opportunity
to admit into it new Favourites, and ex-
clude others that have not been so zealous in
his Service. These Justices take the Oath
of a Judge, with the other Oaths of Alle-
giance, &c. They hold a Court once a
Month, or if there be but little Business,
once in two Months, and have a Power of
deciding

deciding all Sorts of Causes in their several Counties above 20 s. or two hundred Pounds of Tobacco, Value, except such as reach to the Loss of Life or Limb, which are reserv'd to the General Court, to which also Appeals lye from these County Courts.

These County Courts having always been held by Country Gentlemen, who had no Education in the Law, it was no Wonder if both the Sense of the Law was mistaken, and the Form and Method of Proceedings was often very irregular; but of late the Insufficiency of these Courts has been much more perceiv'd and felt than in former Times, while the first Stock of *Virginia* Gentlemen lasted, who having had their Education in *England*, were a great deal better accomplish'd in the Law, and Knowledge of the World, than their Children and Grand-children, who have been born in *Virginia*, and have had generally no Opportunity of Improvement by good Education, further than that they learned to read, write, and cast Accompts, and that but very indifferently.

General
Court.

The General Court so call'd because it tryes the Causes of the whole Country, is held twice a Year by the Governor and Council, as Judges, at *James Town*, viz. in the Months of *April* and *October*. It is strange that they never had a Commission for holding of this Court, nor never took the Oath of Judges, perhaps it was not design'd by the Crown that they should hold it, since besides that they are unskilful in the Law, it is thought an

an inconvenient thing in all Governments, that the Justice and Policy of the Government should be lodg'd in the same Persons, who ought indeed to be a Check upon one another; and therefore the Governor had Power, by the Advice of the Council, to set up Courts of Judicature; but that they should make themselves the supreme Court, proceeds either from the same Spirit of ingrossing all Power into their own Hands, of which are discover'd so many Instances before, or perhaps rather from the Poverty of the Country in its Infancy, which was not able to go to the Charge of maintaining Judges well skill'd in the Law, for this we must acknowledge is of an elder Date than the other Usurpations, which generally had their Original but of late Years, to wit, about the time of the Lord Culpepper's Government, when the Government of Virginia, which before had been a Business of Care and Danger, came now to be a Business of Gain and Advantage. However it is, it is certain that it is a continual heavy Grievance in that Country; that if a Man be injur'd in Point of Law or Equity, there is no Superior there to whom he can make his Complaint, nor no possible way of Redress without an infinite Charge in bringing the Matter to *Whitehall*, which few in that Country have Purse and Skill to manage. And indeed, we are so much the more confirm'd in the Opinion that it was never design'd by them, whosoever they were that had the first modelling of the Virginia Government,

verment, but has proceeded from some of the above-mention'd Causes, because we perceive in all other English as well as foreign Plantations, Judges were establish'd in distinct Persons from the Governor and Council, who had the Administration of the Policy and Government.

Any Cause may commence in the general Court, that exceeds the Value of 16 *l.* Sterl. or 16 Hundred Pounds of Tobacco, and by Appeal, any Cause whatsoever may be brought thither. This Court takes Cognizance of all Causes in Chancery, the King's Bench, the Common Pleas, the Exchequer, the Admiralty and Spirituality.

There lies no Appeal from this Court at present, (as there did formerly, see pag. 26.) but to the King in Council, and that only where the Value exceeds 300 *l.* Sterl. and where good Security to pay the Principal with all Costs and Damages is given.

The Forms
of proceed-
ing in
Court dis-
agreeable
to England.

The Forms of Proceeding in this Court are, almost in every Thing, disagreeable to the Laws of England, and very irregular. Original and judicial Writs run not in the Name of the King, but resemble Warrants made by Justices of the Peace. There are no formal Declarations there, Petitions are made use of in their stead; neither is there any Method observed in Pleading. There are not above four several original Writs allowed of, i. e. such as they make use of. No Writ of Error is allow'd of, Appeals are made use of in their Place, and, by a Rule made in the general Court, no new Matter is to be

Be moved upon an Appeal. By a Law of that Country, the respective Sheriffs are obliged to make Returns that the Writs, which they receiv'd, are executed, and this Return must be three Days before the Day of Hearing in the County Court, otherwise they are to be fined, notwithstanding this Law, in all the Time that we were there, we could never hear that any Writs issued from the County Court, but the Sheriff's *Colore Officii* made Arrests without them, which has been the Occasion of great Troubles, and as yet never rectify'd.

No. *Venire* issues there for summoning Juries, but in criminal Cases only, and then but six are returned from the Vicinage. The Sheriff does return Juries summon'd without any Warrant or Authority, and they are not out of the Vicinage, but oftentimes from the remotest Parts of the County, from the Place where the Fact arises, and many Times Inhabitants of other Countys are of the Jury, nay sometimes the whole Jury. There is no Pannel return'd into the Office. The Sheriff, when the Jury are to appear, calls over their Names, which he knows by his Pocket-Book, or by a little Scrip of Paper which he holds in his Hand.

Coroners are not there elected by the County, but recieve their Authority by a Commission from the Governor.

The Granting of Probates and Administrations is by Law lodg'd solely in the County Courts, yet the general Court often grants them. As this is against Law, so it may

may be of ill Consequence. Notwithstanding the County Courts grant the Administrations and Probates yet the Governor signs them or appoints other Persons to do it. Sometimes Administrations and Probates are granted by a County Court, and yet not Part of the Estate lies in that County.

we could never hear that any Writs issued from the County Court, but the Sheriff's

Colours Officer made Arrests without them,

which has been the Occasion of great Trou-

bles, and as yet never rectify'd.

Concerning the Secretary's Office.

Justices, but in criminal Cases only, and then

but fix are returned from the Vicarage

IT is almost impossible to give a full and

perfect Account of the Secretary's Office,

there is such a Medley in it, that its scarce

credible; for indeed that one Office com-

prehends all the Offices in England, and more,

which makes it a most difficult Thing to keep

it in Order. All Proceedings relating to the

general Court, viz. all Proceedings in Chan-

cery, the King's Bench, Common Pleas,

Exchequer, Admiralty and ecclesiastical

Courts are here recorded. All Conveyances,

Letters of Attorney, and other Writings

from foreign Parts are there enter'd. All

Surveys are sent thither. All Commissions

both civil and military, go from thence.

When, by an Office, it is found that Land

escheats to the King, the Inquisitions are

return'd thither, and the Grants thereof pass

from thence, and the Warrants upon which

they

*Medley of
Business in
the Secre-
tary's Of-
fice.*

they are grounded. The Clerks of the respective County Courts are oblig'd, by Law, to return, into that Office, an Account, annually, of all Probats of Wills and Administrations, granted in the respective County Courts. All Probats of Wills, and Administrations granted in foreign Parts, if they, in any Way, relate to *Virginia*, are there entred no Record.

All Rights upon which Patents are grounded, are there entred. All Writs for chusing of Burgesses issue from thence, and, after Election, are there returned. All original and judicial Writs, that is, such as they make use of, relating to any Proceedings in the general Court issue from thence, and are there returnable. All Certificates of Births, Marriages and Burials are to be returned thither. All Fines and Forfeitures are certify'd thither. All Matters whatsoever, relating to the Duty of a Coroner, are returned thither. All Admissions, Institutions and Inductions are there entred. All Freedoms of Ships are recorded there. All Naturalizations and Denizations go from thence, and are there enter'd. By a Law of that Country, no Person that has liv'd there any Time, can go from thence without a Pass, which generally issues from this Office. All Appeals made from the County Courts are return'd thither. All Certificates of the Licenses of Ordinary Keepers, selling Drink and keeping publick Houses of Entertainment are returned from the several County Courts thither. All Matters Proceedings relating to the Admiralty and

D

ecclesiastical

Clerks of
the Secre-
tary's Of-
fice.

Patents
how gran-
ted.

ecclesiastical Courts are registred here. The Secretaries, who seldom or never understand or mind this Office, have all the Profits belonging to all the foregoing, and many other Matters. They generally place a Clerk under them, who is stiled the Clerk of the general Court. There are generally one or two other Clerks under him. They neither take an Oath to discharge their Duty, nor give any Security. The Secretaries themselves are properly the Clerks of the general Court, for they receive all the Profits arising from that Place, and allow only a Salary to him that discharges that Duty; yet the Secretaries sit always as Judges of that Court. There are many Patents and other Records, in that Office, in loose torn Pieces, that are scarce legible, and if some speedy Care be not taken, they will become of no Use. In case two Patents bearing the same Date, be granted for the same Land, the first that is enter'd on Record is prefer'd, but to obtain that Favour, it has been usual to give a Gratuity to the Clerk, who formerly, for such Gratuity, used to enter the Patents immediately on the Record, before they were either sign'd by the Governor, or seal'd with the Colony Seal, in such Cases no Date was inserted, the Clerk not knowing what Day they might pass. Many of those Patents are entered on Record without any Date, and, for some Cause, never passed at all. The Governor signs all Patents. There is a Recital in them, that the Governor grants that Land, by and with the Advice and Consent of

of the Council, and yet the Patents are never read by the Governor, nor in Council, nor do the Council take any Notice of them. The Secretary likewise signs all Patents, after these Words are inserted, Compared, and agrees with the Original, and yet the Secretary neither reads nor compares any of them, and, in truth, the Patent which he signs is the Original itself.

S E C T. IX.

An Account of all publick Money and Tobacco, viz. How it's rais'd, collected, lodg'd, and issued out, and to what Uses disposed of, as also the present State of the Revenue of Virginia.

BEFORE we enter upon this Subject it will be necessary to give a brief Description of the Office of the Sheriffs, Collectors and Auditor, of whom there will be frequent Mention made in the following Account.

The Sheriff is an Officer that executes all *The Sher-* Writs &c. and is the publick Collector of all *riff.* Tobacco for the County or Country's Use, and of the King's Quit-Rents, in which Notion of a Collector, he is only here consider'd.

The Collectors collect all Money-Duties. *Collectors.* The Auditor audits the Collector's Accounts, *Auditor.* to which he sees them sworn before the Go-

vernor, he also takes in the Sheriff's Accounts of Quit-Rents, which he sells, by the Governor's Advise. He is the Receiver general of all publick Money, and keeps it in his Hands, till it is issued out by the King's or Governor's Warrants. He transmits his Accounts yearly to *William Blaithwait Esq;* Auditor of the Plantations.

Levys.

There is one Sort of Taxes well known in that Country by the Name of Levys, which is a Poll Tax paid every Year, for the Use of the Parish County or Country, and so goes by the Name of the Parish Levy, County Levy, and Publick Levy. The Fund upon which these Levys are paid, is the Polls or Heads of the several tythable Persons in

Tythables.

the Country. Now all Slaves both Men and Women, and all white Men above the Age of 16 Years are reckon'd Tythables. And there is a certain Time every Year, viz. about the Beginning of June, before the 10th Day of it, when all Masters of Families are obliged to give in a List of all the tythable Persons within their several Families, to a certain Justice of Peace in that District where they live, who is authoriz'd by the County Court to take it, and is oblig'd to give it in at the next County Court, where it is affixed at the Court Door, to the End that if any Tythables, in any Family, are not listed, they may be discover'd and found out. For it is every Man's Interest to have the List of Tythables as full as is possible, it being so much Ease to him in his own Levy, as will appear by and by. And there is a great

great Penalty upon every Master of a Family that conceals a Tythable, viz. the Loss of the Slave, if he or she is a Slave, that is conceal'd, and the Penalty of 2000 Pounds of Tobacco, if it is a free Man or Woman. The Lists of Tythables being thus exactly taken, out of them the Parish, County, and publick Levy are raised, in this Manner.

For the Parish Levy, the Vestry of every Parish ^{Levy.} meet usually some Time about the Month of October, (when the Tobacco is ready) and making a Computation of all the Parish Debts for that Year, viz. so much for the Minister's Salary, so much for the Clerk, so much for building, Reparations and Ornaments of the Church, so much for the Poor. &c, and adding 8 per Cent. to that Part of it which is to be paid with Cask, and 5 per Cent. in some Places 10, for Collection. They divide the whole Sum of Tobacco (for all Levys are paid in Tobacco) by the Number of Tythables in their Parish List, which the Church-Wardens are obliged for the above Salary to collect from the several Masters of Families, and to pay away to the several Persons to whom it is due. At the Easter Vestry the Church-Wardens make up their Accounts with the Vestry. The same Method is ob- ^{County}serv'd for the County Levy, viz. The Justices ^{Levy.} of the Place meet, and compute all the County Debts, viz. the Charge of building and repairing their Court House and Prison, keeping up their Bridges, Causeys, and Ferry-Boats, the Charge of Coroner's Inquests, and especially (which is the greatest Charge

Publick
Levy.

Charge of all) the Allowance to their two Burgeses at the general Assembly, if there has been any that Year, which Allowance is 120 Pounds of Tobacco and Cask *per* *alem* to each of them, besides Extraordinaries for going and coming. All which Charge, with 8 *per Cent.* for Cask, and 10 *per Cent.* for Collection, is divided equally according to the List of Tythables for the County, and collected, by the Sheriff, from the several Masters of Families, who is obliged to pay it away to the several Persons to whom it is due, and some County Court, afterwards he makes up his Accounts with the Justices of that County. The publick Levy is laid by the general Assembly, in this Manner, there is a Committee appointed by the House of Burgeses, called The Committee of Claims, to which all that have any thing due from the Publick, bring in their Claim, and they make a Computation of all the publick Charges of the Country, *viz.* the Salary of the Clerk of the House of Burgeses, and the Clerk of the upper House, and the Clerks of Committees, and of the Messengers, Door-Keepers, &c. as also the Charge of the present Forces maintain'd by the Country, Writs for Assemblies, building and repairing the State House, Rent for the Council Chamber, taking up of run-away Servants, &c. All which Charge, with 8 *per Cent.* for Cask, and 10 *per Cent.* for Collection, is divided equally, according to the Number of Tythables in the whole Country, being, at present, about 20000. This is call'd

Government of VIRGINIA.

23

call'd the publick Levy, for raising of which there is an Act pass'd, of Course agreed to by the Governor, Council and Burgeses every Assembly. This publick Levy being in the several Counties added to the County Levy, is gathered altogether by the Sheriffs of the several Countys, and, for the most Part, the Church-Wardens likewise throw in the Parish Levy to it, so that the Sheriff collects all three.

Their Parish, County and publick Taxes in Virginia, have always been laid in this Fashion, viz. not upon Land, Houles, Stocks of Horses, Cattle, Trade, &c. but the Number of Tythables. The Land they think, pays Tax enough in the Quit-Rents, and their Trade by the 2 Shillings per Hhd. upon Tobacco, besides Custom in England, and other Ports to which it is exported, and for their Stocks of Cattle, Horses, &c. they turn to so little Account, that they think it not reasonable to lay a Tax upon them; their Servants and Slaves being the most considerable Part of their Estate, are the only Rule they observe in laying the Levy. These three Levys, of Parish, County, and Publick may come, *communibus annis*, to about 100 Pounds of Tobacco for every Tythable. None of these Levys come into the Hands of the Auditor, as all the following Revenues or Customs do, of which we shall now give an Account.

They are of four Sorts, and made up in four separate Accounts.

1^{stly}. The Account of the King's Quit-

Account of
Quit-
Rents.

Rents, which is 1 s. per Annum upon every 50 Acres of Land in *Virginia*, paid generally in Tobacco at one Penny per Pound, which is 24 Pounds of Tobacco for every 100 Acres.

Only the Northern Neck, viz. that great Tract of Land lying between *Rappahannock* and *Potomoke* Rivers, being given away by King *Charles* the 2d for a certain Number of Years, and afterwards by King *James* in Fee Simple to *Thomas Lord Culpepper*, (the same Man that got the Governor's Salary augmented 250 Pounds per Annum, and the Appeal to the general Assembly to be taken away, and the Suspension of the Counsellors to be at the Governor's Pleasure, and had once a thirty Years Grant of the Quit-Rents of all *Virginia*, which put the Country in such a Flame, that King *Charles* the 2d to appease them, bought it off with a Pension of six hundred Pounds a Year, upon the Establishment of the Horse-Guards in *England*, paid at this Day to his Executors.) the Quit-Rents of that Northern Neck are not now in the King's Hands, but are paid to the Heirs of the said Lord *Culpepper*.

The Quit-Rent Tobacco of the rest of *Virginia* is paid, by the several Land-Lords, to the Sheriff of each County, who is allow'd 10 per Cent. by the King, for collecting it. He collects it by the old Rent-Rolls, and as good Information as he can get of what Land is lately taken up: Then it is sold privately by the Auditor, with the Advice of the Governor, at very easy Rates, commonly to the

Gentlemen of the Council, viz. The Tobacco of every County, with the next perhaps adjacent to it, to the Counsellor that lies convenient. The Governor and the Auditor buying some Share, they pay for it to the Auditor in Money or Bills of Exchange, according to the Quantity they have received, which appears by the Receipt to the Sheriff, who makes up his Account with the Auditor, the Auditor transmits this Account yearly to *William Blaitthwait Esq*; but keeps the Money arising from these Quit-Rents in his own Hands, till it is drawn out by Orders of the Lords of the Treasury, directed to the Governor, upon which he issues his Warrant to the Auditor of Course. For this receiving and paying away, the Auditor hath seven and an half *per Cent*. The Revenue of Quit-Rents amounts to about 800 *l*. a Year. There has been great Talk of Concealment of Quit-Rents, and private Compositions with the Governor and Auditor, of which we can give no distinct Account, nor of the present Money in Bank in the Auditor's Hands upon the Ballance of this Account of Quit-Rents, this being a Secret betwixt the Governor, Auditor and Mr. *Blaitthwait*. Only when Governor *Nicholson* left the Government of *Virginia* in the Year 1692, there was then in Bank, upon this Account, about 2500 Pounds, besides 1985 Pounds, 14 Shillings 10 Pence, the King gave out of the Quit-Rents at that Time towards the Building of the College of *William and Mary* in *Virginia*.

Account of
2 Shil. per
Hogshead.

The Account of the two Shillings
per Hogshead. The Particulars of this Ac-
count are the Duty of 2 Shillings upon every
Hogshead of Tobacco exported out of Vir-
ginia, given to the King, by Act of Assem-
bly, for the Use of the Government; as also
Port-Duties, being 15 d. per Tunn upon all
Ships and Vessels trading thither, together
with the Fines and Forfeitures upon all Acts
of Parliament and Assembly. The Total of
this Account is something less than it was
since a late Law in Sir Edmund Andros's time,
about the Size of Tobacco Hogsheads,
which has enlarg'd them about one 3th
Part, and consequently diminish'd the
King's Revenue about so much. Perhaps
now the whole of this Account may amount,
communibus annis, to 3000 l. Sterl.

How dis-
pos'd of.

There is paid out of it to the Masters of
Ships and Vessels, to encourage them to give
a true Account, 10 per Cent.

To the Collectors, 10 per Cent.

To the Auditor who receives it from the
Collectors, 7 and an half per Cent. Then the
Auditor pays away the rest by the Governor's
Warrant, viz.

To the Governor for Salary, 2000 l.

To Him also for House-Rent, 150 l.

To the Council, 350 l.

To the Clerk of the Council, 50 l.

To the Attorney General, 40 l.

To William Blaitthwait, Esq; 100 l.

To Mr. John Povey, 100 l.

To a Messenger, 25 l.

To two Gunners, about 20 l.

The

The present Collectors now
in the Year 1692, when Col. Nicholson left

Present
Collectors.

For the Upper District of James River,
Col. Edward Hill.

For the Lower District of James River,
Col. Daniel Park.

For York River, Col. Edmund Jennings.

For Rappahannock River, Ralph Wormley,
Esq.

For the Upper District of Potomack River,
Col. Richard Lee.

For the Lower District of Potomack River,
Col. Christopher Wormley.

For two Districts of the Eastern Shore,
Col. Charles Scarborough, and Capt. John
Eustis.

This Revenue would turn to better Ac-
count if there were any certain Ports for
Exportation and Importation, and likewise
if the Collectors kept their Offices conve-
nient. Many of them do now live at great
Distance, and trust to unworn Deputies,
and they to unworn Masters of Ships, and
other Exporters.

The Collectors are commonly paid this
Duty in Money or Bills of Exchange; they
pay it in to the Auditor, who makes up the
Accompt, and for Fashion brings it before
the Governor and Council; but no body of-
fering to say any thing to it, it is by him
transmitted to William Blarthewait, Esq. Au-
ditor General of the Plantations: What be-
comes

comes of it afterwards, we know not. There was remaining in Cash in the Auditor's Hands, upon the Ballance of this Accompt, in the Year 1692, when Col. Nicholson left the Government, the Sum of 1500 *l.* which is since spent, and this Accompt is farther in debt to the Auditor above 4000 *l.* Sterl.

Account of
the Penny
per Pound.

3dly. There is a Revenue of one Penny per Pound given to his Majesty by Act of Parliament in England upon all Tobacco exported from one English Plantation in America to another. There is a Provision in the Act of Parliament, that if the Exporter has not ready Money, he shall pay to the Value of it in the Commodities he exports. The Nomination of the Collector, and the Inspection of this Revenue, is by the same Act of Parliament put into the Hands of the Commissioners of his Majesty's Customs in England. This Revenue in Virginia and Maryland, his Majesty by his Royal Charter, Anno 1692, gave away to the College of William and Mary in Virginia, as a perpetual Fund for the Maintenance of their President and Masters. That College allows 20 per Cent. out of it to several Collectors, nominated by the Honourable the Commissioners of his Majesty's Customs, and 5 per Cent. to the Auditor of Virginia, who is the College Treasurer. The Estimate of the Price of the Commodities in lieu of the Penny per Pound, hath been hitherto made by the Governor and Council, at one Pound of Tobacco for a Penny, which is much higher than the Estimate they make of the Quit-Rents,

Rents. The Accompts of this Revenue are yearly audited by the Governors of the College, who see the Collectors sworn to them before the Governor, and transmit Copies of them to the Commissioners of his Majesty's Customs in England. The clear Produce of this Revenue in Virginia to the College, is, *communibus annis*, something better than 100 l. per Annum.

The present Collectors of the Penny per Pound *Collectors*
in Virginia. of it.

Col. Edward Hill, for the Upper District of James River.

Mr. Peter Hayman, for the Lower District of James River.

Col. Edmund Jennings, for York River.

Col. Christopher Wormley, for Rappahannock River.

Col. Charles Scarborough, for the Eastern Shore. And

Mr. Nicholas Spencer, for Potomoke River.

4thly, Whatsoever Money-Duty is accidentally rais'd by the General Assembly, is usually collected by the Collectors of the two Shillings per Hogshead, who are allow'd 10 per Cent. Salary. They pay it in to the Auditor, who is allow'd 7 and an half per Cent. and it is issued out by the Governor's Warrants to such Uses as were appointed by the Act of Assembly that rais'd it. The Accounts of this are laid before the House of Burgesses,

Burgeses, that they may be satisfy'd both how much is risen from such a Fund, and that it is employ'd to the Uses for which the General Assembly appointed it. The House of Burgeses have likewise pretended to a Privilege of naming a Treasurer for all Money rais'd by themselves, without putting it in the Auditor's Hands, and that the Treasurer should pay it away by their intermediate Orders, without any further Warrant from the Governor: Which two Things being lately deny'd them, they are much more averse to the raising of Money: And perhaps their late refusing to renew an A& for an Imposition on Rum, and other Liquors imported, call'd, The Imposition of the Goat a Gallon, is to be attributed partly to this, and partly to the Council's refusing to ascertain the Value of Money as mention'd before, pag. 14

S E C T. X.

*Concerning the Militia, and other Forces**Militia.*

AL the white Men bear Arms, and are listed in the several Companies of Foot, and Troops of Horse, in the several Counties where they live.

Lieut. General.

The Governor is Lieutenant-General, and commands all the Forces. The due mustering

ing

ing of the Militia used to be a great Part of the Governor's Care, but this Gentleman being disabled from travelling on Horseback, is necessitated to leave that Care to others, so that the Musters are at present very much neglected. T C E 2

Under the Governor the chief Command *Colonels.* of every County is by him committed to the Gentlemen of the Council, with the Title of Colonel. But if the Command of any County lyes very remote from all the Counsellors, then the Governor gives that to some other Person, under the Title of Major. *Majors.*

The Governor, by the Advice of the Colonels and Majors, gives Commissions to the Captains and Lieutenants of the several Troops and Companies, and the Colonel himself to the other inferior Officers. *Captains and Lieutenants.*

Besides the Militia, the General Assembly gave Power to Governor Nicholson, when he was Governor of that Country, with the Advice of the Council from time to time, to raise as many Forces as he should judge necessary for the Defence of the Country, which Power is continu'd from Year to Year to the Governor ever since. At present, by Act of Assembly, there is a Lieutenant and twelve Troopers maintain'd in constant Pay at the Head of each of the four great Rivers, viz. James River, York River, Rappahannock River, and Potomack River, under the Title of Rangers, their Business being to range the Woods, to look out for the Indian Enemy, which is commonly a remote Nation of Indian Robbers, who if they are not look'd after,

after, are apt in their Travels to fall in on the frontier Plantations, and plunder them.

SECT. XI.

Concerning the Church and Religion.

Church of England.

THE Inhabitants do generally profess to be of the Church of England, which accordingly is the Religion and Church by Law establish'd.

Dissenters.

The Number of *Dissenters* in that Country are very inconsiderable, there not being so many of any Sort as to set up a Meeting-House, except three or four Meetings of *Quakers*, and one of *Presbyterians*.

Parishes and Churches.

The Country is divided into Fifty Parishes, in most of which there are two, sometimes three Churches and Chappels, yet some of these Parishes are exceeding small, in Proportion to the rest, so that they are not able to maintain a Minister: The Reason whereof was, that these Parishes were in the most fertile and lovely Spots of Ground, where the first *English* Inhabitants did chiefly settle; and it is very likely, when the Division of the Parishes was made, it was thought Towns would be built in those Places, and therefore they assign'd them but a small Compass of Country. But this Design miscarrying, it is great Pity that there is not a more convenient Division of the Parishes order'd.

As

As to the Government of the Church, from the first Settlement that whole Matter, as all Things else, was put into the Hands of the Governor. By the Laws of the Country, the Ministers were oblig'd to produce their Orders to him, and to shew that they had Episcopal Ordination.

In every Parish, by the Law of that Coun-^{Vestries.} try, there is a Vestry consisting of twelve Men, chosen at first by all the Masters of Families in the Parish. They have a Power to continue themselves, for as one dyes or removes out of the Parish, the remaining Vestry-men chuse another in his room. Those Vestry-men lay the Parish Levy, and manage all other parochial Matters. The Power of presenting Ministers is in them by the Law of that Country; But the Law in this Point is little taken Notice of, by reason of a contrary Custom of making annual Agreements with the Ministers, which they call by a Name coarse enough, viz. Hiring of the Ministers; so that they seldom present any Ministers, that they may by that Means keep them in more Subjection and Dependence. This Custom has had a great many bad Consequences. No good Ministers that were inform'd of it would come into the Country, and if they came, ignorant of any such Custom, they quickly felt the Effects of it in the high Hand where- with most Vestries manag'd their Power, and got out of the Country again as soon as they could. The Mansion-Houses, if there were any, went to Decay, the Mini-
E ster

ster holding the Living so precariously, that it could not be expected he would bestow much on Reparation; and very often the Glebe was not in his Hand. He stood likewise on so precarious Terms, that he must have a special Care how he preach'd against the Vices that any great Man of the Vestry was guilty of; for if he did, he might expect a Faction would be made in the Vestry, to be against renewing the Agreement with him for another Year. In short, several Ministers were turn'd out by the Vestries, without any Crime proved, or so much as alledg'd against them. And this is their Case at this Day: They are only in the nature of Chaplains, and hold their Livings by annual Agreements with the Vestries; at the Expiration of which Agreement, the Minister is dismiss'd or retain'd again at the Vestries Pleasure. By reason of these their precarious Circumstances, it comes to pass that the Country is very badly provided with Ministers, there not being at present above half so many Ministers as there are Parishes. The Governor connives at this, and tho' he is Ordinary, yet never presents *jure devoluto*; so that really many Parishes chuse to be without a Minister, for by that Means they save all the Minister's Dues in their own Pockets.

*Ministers
Salaries.*

The yearly Salary of the Ministers, establish'd by Law, is, 16000 Pounds of Tobacco, without Cask. This Tobacco is levy'd by the Vestry on the Parish, according to the Number of Tythables, and collected by the

the Church-Wardens with the rest of the Parish Levy: They have 5 per Cent. for their Pains.

King Charles II. gave the Bishop of London Jurisdiction over all the Churches in the English Plantations, except as to three Things, viz. Licenses of Marriages, Probates of Wills, and Inductions of Ministers, which he reserved to the several Governors.

In Virginia the Lord Bishop of London de- Commis-
putes a Commissary for this Part of his Ju- sary.
risdiction, whose Business is to make Visita-
tions of Churches, and to take the Inspec-
tion of the Clergy. The present Commissa-
ry is Mr. James Blair, he hath no Salary
nor Perquisites, but the King makes it up by
his Royal Bounty, having been graciously
pleas'd, for two Years, to order him 100 l.
a Year, out of the Quit-Rents of Virginia,
which we suppose his Majesty intends to con-
tinue.

S E C T. XII.

*Concerning the College of William and Mary
in Virginia.*

IN the Year 1691, Colonel Nicholson be- William
ing Lieutenant Governor, the General and Mary
Assembly considering the bad Circum- College.
stances of the Country for want of Educa-

tion for their Youth, went upon a Proposition of a College, to which they gave the Name of *William and Mary*. They propos'd that in this College there should be three Schools, viz. A Grammar School, for teaching the *Latin* and *Greek* Tongues: A Philosophical School, for Philosophy and Mathematicks; and A Divinity School, for the Oriental Tongues and Divinity; for it was one Part of their Design that this College should be a Seminary for the breeding of good Ministers, with which they were but very indifferently supply'd from abroad: They appointed what Masters should be in each of these Schools, and what Salaries they should have. For the Government and Visitation of this College, they appointed a College-Senate, which should consist of 18, or any other Number not exceeding 20, who were then the Lieutenant-Governor, four Gentlemen of the Council, four of the Clergy, and the rest nam'd out of the House of Burgesses, with Power to them to continue themselves by Election of a Successor in the room of any one that should dye, or remove out of the Country. They petition'd the King that he would make these Men Trustees for founding and building this College, and governing it by such Rules and Statutes, as they, or the major Part of them, should from Time to Time appoint. Accordingly, the King pass'd his Charter under the Great Seal of *England* for such a College, and contributed very bountifully, both to the Building and Endowment of it. Toward

How govern'd.

The King's Bounty to it, &c.

ward the Building he gave near 2000 *l.* in ready Cash, out of the Bank of Quit-Rents, in which Governor *Nicholson* left at that Time about 4500 *l.* And towards the Endowment the King gave the neat Produce of the Penny per Pound in *Virginia* and *Maryland*, worth 200 *l.* per Annum, (mention'd pag. 60.) and the Surveyor General's Place, worth about 50 *l.* per Annum; and the Choice of 10000 Acres of Land in *Panmuckey Neck*, and 10000 more on the South-side of the *Black-water-swamp*, which were Tracts of Land till that Time prohibited to be taken up. The General Assembly also gave the College a Duty on Skins and Furrs, worth better than 100 *l.* a Year, and they got Subscriptions in *Virginia* in Governor *Nicholson's* Time for about 2500 *l.* towards the Building. With these Beginnings the Trustees of the College went to work, but their good Governor, who had been the greatest Encourager in that Country of this Design, (on which he has laid out 350 *l.* of his own Money) being at that time remov'd from them, and another put in his Place that was of a quite different Spirit and Temper, they found their Business go on very heavily, and such Difficulties in every thing, that presently upon change of the Governor they had as many Enemies as ever they had had Friends; such an universal Influence and Sway has a Person of that Character in all Affairs of that Country. The Gentlemen of the Council, who had been the forwardest to subscribe, were the backwardest

*Difficulties
in carrying
it on.*

to pay; then every one was for finding Shifts to evade and elude their Subscriptions; and the meaner People were so influenc'd by their Countenance and Example, (Men being easily perswaded to keep their Money) that there was not one Penny got of new Subscriptions, nor paid of the old 2500 *l.* but about 500 *l.* Nor durst they put the Matter to the Hazard of a Law-Suit, where this new Governor and his Favourites were to be their Judges. Thus it was with the Funds for Building: And they fared little better with the Funds for Endowments; for notwithstanding the first Choice they are to have of the Land by the Charter, Patents were granted to others for vast Tracts of Land, and every one was ready to oppose the College in taking up the Land; their Survey was violently stop'd, their Chain broke, and to this Day they can never get to the Possession of the Land. But the Trustees of the College being encourag'd with a Gracious Letter the King writ to the Governor to encourage the College, and to remove all the Obstructions of it, went to work, and carry'd up one Half of the design'd Quadrangle of the Building, advancing Money out of their own Pockets, where the Donations fell short. They founded their Grammar-School, which is in a very thriving Way; and having the clear Right and Title to the Land, would not be baffled in that Point, but have struggled with the greatest Man in the Government, next the Governor, *i. e.* Mr. Secretary *Wormley*, who pretends

pretends to have a Grant *in futuro* for no less than 13000 Acres of the best Land in *Panmuckey Neek*. The Cause is not yet decided, only Mr. Secretary has again stop'd the Chain, which it is not likely he would do, if he did not know that he should be supported in it. The Collectors of the Penny per Pound likewise are very remiss in laying their Accompts before the Governors of the College, according to the Instructions of the Commissioners of the Customs, so that illegal Trade is carry'd on, and some of these Gentlemen refuse to give any Account upon Oath. This is the present State of the College. It is honestly and zealously carry'd on by the Trustees, but is in Danger of being ruin'd by the Backwardness of the Government.

Sign'd,

Henry Hartwell,
James Blair,
E. Chilton,

E 4 CHARTER

CHARTER granted by King William
and Queen Mary, for the Founding of
William and Mary College in Virginia.

The General Assembly of Virginia desire that a College of universal Study might be established.

And the Statutes thereof to be made by Trustees nominated by the said Assembly.

WILLIAM and MARY, by the Grace of God, of England, Scotland, France, and Ireland, King and Queen, Defenders of the Faith, &c. To all to whom these Our present Letters shall come, greeting. Forasmuch as our well-beloved and trusty Subjects, constituting the General Assembly of our Colony of Virginia, have had it in their Minds, and have proposed to themselves, to the end that the Church of Virginia may be furnish'd with a Seminary of Ministers of the Gospel, and that the Youth may be piously educated in good Letters and Manners, and that the Christian Faith may be propagated amongst the Western Indians, to the Glory of Almighty God, to make, found, and establish a certain Place of universal Study, or perpetual College of Divinity, Philosophy, Languages, and other good Arts and Sciences, consisting of one President, six Masters or Professors, and an hundred Scholars, more or less, according to the Ability of the said College, and the Statutes of the same, to be made, encreased, diminished, or changed upon the Place, by certain Trustees nominated and elected by the General Assembly aforesaid; to wit, our trusty and well-beloved

loved Francis Nicholſon, our Lieutenant Governor in our Colonies of Virginia and Maryland, William Cole, Ralph Wormly, William Bird, and John Leare, Esqs; James Blair, John Farnifold, Stephen Fauce, and Samuel Gray, Clerks, Thomas Milner, Christopher Robinson, Charles Scarborough, John Smith, Benjamin Harrifon, Myles Cary, Henry Hartwell, William Randolph, and Matthew Page, Gentlemen, or the major Part of them, or of the longest Livers of them, upon the South-Side of York River, or elsewhere, where the General Assembly itself shall think more convenient, within our Colony of Virginia, to be supported and maintained in all Time coming. And forasmuch as our well-beloved and trusty the General Assembly of our Colony of Virginia aforesaid, has humbly supplicated us, by our well-beloved in Christ, James Blair, Clerk, their Agent duly constituted, That we would be pleased not only to grant our Royal Licence to the said Francis Nicholſon, William Cole, &c. to make, found, erect, and establiſh the said College, but also to extend our Bounty and Beneficence towards the Erection and Foundation of the same, in such Way and Manner as to us shall seem most expedient: We, taking the Premises seriously into our Consideration, and earnestly desiring that, as far as in us lies, true Philosophy, and other good and liberal Arts and Sciences may be promoted, and that the orthodox Christian Faith may be propagated; and being willing, that forever hereafter there should be one such College

Their Names.

And supplicated the King and Queen to grant their Royal Charter of License to the Trustees, to establish and erect the said College.

That the Liberal Arts and the Christian Faith may be propagated.

Their Ma-
jesties in-
corporate
the said
Trustees,

With Pow-
er to erect
a perpetual
College,
consisting
of a Presi-
dent, six
Masters,
and an
hundred
Scholars.

lege, or Place of universal Study, and some certain and undoubted way within the said College, for the Rule and Government of the same, and of the Masters or Professors, and Scholars, and all others inhabiting and residing therein, and that the said College should subsist and remain in all Time coming, of our special Grace, certain Knowledge, and meer Motion, have granted and given Leave, and by these Presents do grant and give Leave, for us, our Heirs and Successors, as much as in us lies, to the said *Francis Nicholson, William Cole, &c.* that they, or the major Part of them, or of the longest Livers of them, for promoting the Studies of true Philosophy, Languages, and other good Arts and Sciences, and for propagating the pure Gospel of Christ, our only Mediator, to the Praise and Honour of Almighty God, may have Power to erect, found and establish a certain Place of universal Study, or perpetual College, for Divinity, Philosophy, Languages, and other good Arts and Sciences, consisting of one President, six Masters, or Professors, and an hundred Scholars, more or less, Graduats and Non-Graduats, as abovesaid, according to the Orders and Statutes of the said College, to be made, appointed and establish'd upon the Place, by the said *Francis Nicholson, William Cole, &c.* or the major Part of them, upon a certain Place on the South Side of York River, on the Land late of Colonel *Townsend*, deceas'd, now in the Possession of *John Smith*, near the Port appointed or laid out for York County

County by the said General Assembly, within our said Colony of *Virginia*; or if by reason of Unwholsomeness, or any other Cause, the said Place shall not be approved of, wheresoever else the General Assembly of our Colony of *Virginia*, or the major Part of them shall think fit, within the Bounds of the foresaid Colony.

II. And further, of our special Grace, certain Knowledge, and meer Motion, we have granted and given Leave, and by these Presents do grant and give Leave, for us, our Heirs and Successors, to the said *Francis Nicholson, William Cole, &c.* that they, or the major Part of them, or of the longest Livers of them, may be enabled to take, hold and enjoy, and that they may be Persons apt and capable in Law for taking, holding and enjoying all Mannors, Lands, Tenements, Rents, Services, Rectories, Portions, Annuities, Pensions, and Advowsons of Churches, with all other Inheritances, Franchises and Possessions whatsoever, as well Spiritual as Temporal, to the Value of Two Thousand Pounds a Year, and all other Goods, Chattels, Monies, and Personal Estate whatsoever, of the Gift of any Person whatsoever, that is willing to bestow them for this Use, or any other Gifts, Grants, Assignments, Legacies or Appointments of the same, or of any of them, or of any other Goods whatsoever; but with this expresse Intention, and upon the special Trust we put in them, that they the said *Francis Nicholson, William Cole, &c.*

The Trustees empowered to take, hold, and enjoy Lands, Inheritances, &c. to the Value of 2000 l. per Annum.

And all Goods and Chattels whatsoever of the Gift of any Person.

In Trust for the said or Trustees,

to dispose
the same
for defray-
ing the
Charges of
erecting the
Edifices of
the College
for Books
and all o-
ther Char-
ges.

or the major Part of them, or of the longest Livers of them, shall take and hold the Premises, and shall dispose of the same, and of the Rents, Revenues, or Profits thereof, or of any of them, only for defraying the Charges that shall be laid out in erecting and fitting the Edifices of the said intended College, and furnishing them with Books, and other convenient Utensils, with all other Charge pertaining to the said College, as they, or the major Part of them, shall think most expedient, until the said College shall be actually erected, founded, and established.

And after
the College
is founded,
to assure
the Re-
mainder to
the Presi-
dent and
Masters,
and their
Successors.

And upon this Trust and Intention, that so soon as the said College shall, according to our Royal Intent, be erected and founded, the said *Francis Nicholson, William Cole, &c.* or the longest Livers or Liver of them, and their or his Heirs, Executors, Administrators or Assigns, shall, by good and sufficient Deeds and Assurances in Law, give, grant, and make over to the said President and Masters, or Professors, or their Successors, the said Manors, Lands, Tenements, Rents, Services, Rectories, Portions, Annuities, Pensions, and Advowsons of Churches, with all the other Inheritances, Franchises, Possessions, Goods, Chattels, and Personal Estate aforesaid, or as much thereof as has not been laid out and bestowed upon the building of the said College, or to the other Uses above-mention'd.

III. And seeing the said General Assembly of our Colony of *Virginia* has named, elected,

ed or appointed the said *James Blair*, Clerk, as a fit Person to be President of the said College, we, of our special Grace, certain Knowledge, and meer Motion, do approve, confirm, and ratify the said Nomination and Election, and do by these Presents make create, and establish the said *James Blair* first President of the said College during his natural Life.

James Blair constituted first President of the said College during his Life.

IV. And further, we grant our special Licence to the said *Francis Nicholson*, *William Cole*, &c. and their Successors, or the major Part of them, That they shall have Power to elect and nominate other apt, fit, and able Persons into the Places of the Masters or Professors of the said College; and that after the Death, Resignation, or Depri- vation of the said President or Professors, or any of them the said *Francis Nicholson*, *William Cole*, &c. and their Successors, or the major Part of them, shall have Power to put in and substitute a fit Person or fit Persons, from time to time, into his or their Place or Places, according to the Orders and Statutes of the said College, to be made, enacted, and established for the good and wholesome Government of the said College, and of all that bear Office or reside therein, by the said *Francis Nicholson*, *William Cole*, &c. or their Successors, or the major part of them.

The Trustees impowered to nominate Masters.

In case of Death or Removal to nominate others.

V. And further, we will, and for us, our Heirs, and Successors, by these Presents do grant,

The College when founded, to be called, the College of William and Mary in Virginia.

The President and Masters to be a Body Politick, and have perpetual Succession.

And capable to hold Lands, Tenements,

and Goods and Chattels.

grant, That when the said College shall be so erected, made, founded, and established, it shall be called and denominated for ever, *The College of William and Mary in Virginia*; and that the President and Masters, or Professors, of the said College, shall be a Body Politick and incorporate, in Deed and Name, and that by the Name of the President and Masters, or Professors, of the College of *William and Mary in Virginia*, they shall have perpetual Succession; and that the said President and Masters, or Professors, shall for ever be called and denominated, the President and Masters, or Professors, of the College of *William and Mary in Virginia*; and that the said President or Masters and Professors, and their Successors, by the Name of the President and Masters, or Professors, of the College of *William and Mary in Virginia*, shall be Persons able, capable, apt, and perpetual in Law to take and hold Lordships, Manors, Lands, Tenements, Rents, Reversions, Rectories, Portions, Pensions, Annuities, Inheritances, Possessions, and Services, as well Spiritual as Temporal, whatsoever, and all Manner of Goods and Chattels, both of our Gift, and our Heirs and Successors, and of the Gift of the said *Francis Nicholson, William Cole, &c.* or of the Gift of any other Persons whatsoever, to the Value of **Two Thousand Pounds**, of lawful Money of *England* a Year, and no more, to be had and held by them and their Successors for ever.

VI. And

VI. And also, that the said President and Masters or Professors, by and under the Name of the President and Masters, or Professors, of the College of *William and Mary* in *Virginia*, shall have Power to plead, and be impleaded, to sue, and be sued, to defend, and be defended, to answer and be answered, in all and every Cause, Complaint, and Action, real, personal, and mix'd, of whatsoever Kind and Nature it shall be, in whatsoever Courts and Places of Judicature belonging to us, our Heirs, and Successors, or to any other Person whatsoever, before all sorts of Justices and Judges Ecclesiastical and Temporal, in whatsoever Kingdoms, Countries, Colonies, Dominions, or Plantations belonging to us or our Heirs, and to do, act, and receive these and all other things in the same Manner as our other liege Subjects, Persons able and capable in Law, within our said Colony of *Virginia*, or our Kingdom of *England*, do or may act in the said Courts and Places of Judicature, and before the said Justices and Judges.

To have
Power to
plead and
be implead-
ed, sue and
be sued.

VII. As also, that the said President and Masters, or Professors, and their Successors, shall have one Common Seal, which they may make use of it in whatsoever Cause and Business belonging to them and their Successors; and that the President and Masters, or Professors, of the said College, and their Successors, shall have Leave to break, change and renew their said Seal from time to time at their Pleasure, as they shall see most expedient.

And to have
a
Common
Seal.

VIII. And

And the Trustees impower'd, after the College is founded, to grant Lands, Tenements, &c. to the President and Masters of the said College, and their Successors for ever.

And the said President and Masters impowered to take and hold the same to them and their Successors for ever.

VIII. And further, of our more especial Grace, we have given and granted, and for us, our Heirs and Successors, we give and grant our special Licence, as far as in us lies, to the said Francis Nicholson, William Cole, &c. that they, or any other Person or Persons whatsoever, after the said College is founded, erected, made and established, may have Power to give and grant, assign and bequeath all Manors, Lands, Tenements, Rents, Services, Rectories, Portions, Annuities, Pensions, and Advowsons of Churches, and all manner of Inheritances, Franchises and Possessions whatsoever, as well Spiritual as Temporal, to the Value of Two Thousand Pounds a Year, besides all Burdens and Reprisals, to the President, Masters or Professors of the said College for the time being, and their Successors, to be had, held and enjoyed by the said President and Masters, or Professors, and their Successors for ever; and that they the said President and Masters, or Professors, may take and hold all Manors, Lands, Tenements, Rents, Reversions, Services, Rectories, Portions, Pensions, Annuities, and all manner of Inheritances and Possessions whatsoever, as well Spiritual as Temporal, to the aforesaid Value of Two Thousand Pounds a Year, besides all Burdens, Reprisals and Reparations, to them and their Successors, as abovesaid, for ever. And it is our Will, that the said President and Masters, or Professors, of the said College for the time being, nor their Successors, shall not be troubled, disquieted, molested or aggrieved,

grieved, by reason or occasion of the Premises, or any of them, by us, our Heirs and Successors, or by any of our Justices, Escheators, Sheriffs, or other Bailiffs or Ministers whatsoever, belonging to us, our Heirs and Successors.

IX. And further, we will, and by these Presents do declare, nominate, ordain and appoint the said *Francis Nicholson, William Cole, &c.* and their Successors, to be the true, sole and undoubted Visitors and Governors of the said College for ever; and we give and grant to them, or the major part of them, by these our Letters Patents, a perpetual Succession, to be continued in the Way and Manner hereafter specified, as also full and absolute Liberty, Power and Authority, of making, enacting, framing and establishing such and so many Rules, Laws, Statutes, Orders and Injunctions, for the good and wholesome Government of the said College, as to them the said *Francis Nicholson, William Cole, &c.* and their Successors, shall from time to time, according to their various Occasions and Circumstances, seem most fit and expedient: All which Rules, Laws, Statutes, Orders and Injunctions so to be made, as aforesaid, we will have to be observed, under the Penalty therein contained; provided notwithstanding, that the said Rules, Laws, Statutes, Orders and Injunctions be no way contrary to our Prerogative Royal, nor to the Laws and Statutes of our Kingdom of *England*, or our Colony

The said Trustees and their Successors appointed Visitors of the said College for ever;
Power to make and to establish Statutes.
And to be observed.

F of

CHARTER for

of Virginia, aforesaid, or to the Canons and Constitutions of the Church of England by Law established.

X. And further, we will, and by these Presents for us, our Heirs and Successors, do grant and confirm to the said Visitors and Governors of the said College, and their Successors, that they and their Successors shall for ever be Eighteen Men, or any other Number not exceeding the Number of Twenty in the whole, to be elected and constituted in the Way and Manner hereafter specified; and that they shall have one discreet and fit Person, that shall be elected and nominated out of their Number, in the Manner hereafter mentioned, that shall be, and shall be call'd Rector of the said College; and we have appointed and confirmed, and by these Presents do appoint and confirm the said James Blair to be the present Rector of the said College, to be continued in the said Office for one Year next ensuing the Foundation of the said College, and thereafter, till some other of the Visitors and Governors of the said College shall be duly elected, preferred and sworn into the said Office; and that from time to time, and in all time coming, after the said Year is expired, or after the Death of the Rector within the Year, the Visitors or Governors of the said College, or the greater Part of them, or of their Successors, shall have Power to elect and nominate another discreet and fit Person from amongst themselves

The Visitors to be Eighteen, and not exceeding Twenty.

To have Power to nominate a Rector to continue for one Year.

And to be chosen annually,

The Manner of continuing the Rector and Visitors of the College.

selfes to be Rector of the said College; and that he who is so elected, preferred and nominated, as abovesaid, into the Place of Rector of the said College, shall have Power to have, exercise and enjoy the said Office of Rector of the said College, for one whole Year then next ensuing, and thereafter, until some other Rector of the said College shall be duly elected, preferred and sworn into the said Office: And to perpetuate the Succession of the said Rector, and of the said Visitors and Governors of the said College, we will, ordain and appoint, that as often as any one or more of the said Visitors or Governors of the said College shall die, or remove himself and Family out of our said Colony into any other Country for good and all, that then, and so often, the Rector for the time being, and the other Visitors and Governors of the said College then surviving, and remaining within the Colony, or the major part of them, shall and may have Leave to elect, nominate and chuse one or more of the principal and better sort of Inhabitants of our said Colony of *Virginia*, into the Place or Places of the said Visitor and Governor, or Visitors and Governors so dead or removed, and so to fill up the foresaid Number of Visitors and Governors for the said College; and that he or they so elected and chosen, shall take his or their corporal Oath before the Rector and the other Visitors and Governors of the said College, or the major part of them, well and faithfully to execute the said Office:

CHARTER for

Which Oath the Rector and two or more of the Visitors shall have Power to administer, and that after the taking of the said Oath, he or they shall be of the Number of the said Visitors and Governors of the said College.

XI. And further, We will, and by these Presents, for Us, our Heirs and Successors, do grant and confirm to the said President and Masters, or Professors, of the said College and their Successors that they and their Successors shall have one eminent and discreet Person, to be elected and nominated in the Manner hereafter expressed, who shall be, and shall be called Chancellor of the said College: And We have appointed and confirmed, and by these Presents, for Us, Our Heirs and Successors, do appoint and confirm our well-beloved and right trusty the Reverend Father in God, *Henry*, by divine Permission, Bishop of *London*, to be the first Chancellor of the said College, to be continued in the said Office for seven Years next ensuing, and thereafter till some other Chancellor of the said College shall be duly elected and chosen into the said Office; and that from Time to Time, and in all Time coming, after these seven Years are expired, or after the Death of the said Bishop, or of the Chancellor for the Time being, the Rector and Visitors and Governors of the said College for the Time being, or the major Part of them, shall and may have Power to elect, chuse and nominate some other eminent and discreet Person from Time to Time

A Chan-
cellor of the
College.

Time to be Chancellor of the said College; and that he who is so nominated and elected to be Chancellor of the said College, shall and may have, execute and enjoy the said Office of Chancellor of the said College, for the Space of seven Years then next ensuing, and thereafter till some other Chancellor of the said College shall be duly elected and constituted.

XII. Further, We will by these Presents, and for Us, Our Heirs and Successors, do grant and confirm to the said President and Masters, or Professors, of the said College, and to their Successors, That after the said College is erected, founded and established, they may retain and appoint some convenient Place or Council Chamber within the said College; and that the Rector and other Visitors and Governors of the said College, or the major Part of them for the Time being, as often as they shall think good and see Cause, may convocate and hold a certain Court or Convocation within the said Chamber, consisting of the said Rector and Visitors and Governors of the said College, or the major Part of them, in all Time coming, and in the said Convocation may treat, confer, consult, advise and decree concerning Statutes, Orders and Injunctions for the said College.

The President and Masters to appoint a Place for a Council Chamber.

And the Rector and Visitors to hold a Convocation.

XIII. And further, We will, and by these Presents, for Us, Our Heirs and Successors, do grant and confirm to the said President and

CHARTER for

and Masters or Professors of the said College, and their Successors, or the major part of them, that from Time to Time, and in all Time coming, the said Rector and Visitors or Governors of the said College, and their Successors, or the major Part of them, shall have Power and Authority yearly, on the first Monday which shall happen next after the Feast of the Annunciation of the blessed Virgin Mary, to elect and nominate, and that they shall and may elect and nominate one of the said Visitors or Governors of the said College, to be Rector of the said College for one whole Year then next ensuing; and that he, after he is so elected and chosen into the said Office of Rector of the said College, before he be admitted to execute the said Office, shall, on the same Day and in the same Place, take his corporal Oath before the last Rector and Visitors or Governors of the said College (or any three of them) well and faithfully to execute the said Office; and that after so taking the said Oath he shall and may execute the said Office of Rector of the said College for new whole Year then next ensuing; and also, that every seventh Year, on the same Monday next after the Feast of the Annunciation of the blessed Virgin Mary aforesaid, they shall in like Manner have Power and Authority to elect and nominate another Chancellor of the said College, to be continued for seven Years then next ensuing: And that he who shall be so elected, chosen and nominated into the Office of Chancellor of the said College, shall and may, immediately after such Election and Nomination

The Rector to be annually chosen on the first Monday after the Feast of the Annunciation.

And the Chancellor to be chosen on the said Monday every seventh Year.

Nomination, execute the Office of Chancellor of the said College for seven Years then next ensuing.

XIV. And that the Charge and Expence of erecting, building, founding and furnishing the said College at present, and also of supporting and maintaining the said President and Masters or Professors for the future, may be sustained and defrayed, of Our more ample and bounteous special Grace, certain Knowledge and mere Motion, We have given, granted, assigned and made over, and by these Presents, for Us, Our Heirs and Successors, do give, grant, assign and make over to the said *Francis Nicholson, William Cole, &c.* and their Executors and Assigns for ever, the whole and entire Sum of One thousand nine hundred and eighty five Pounds, Fourteen Shillings and Ten Pence, of good and lawful Money of England, that has been received and raised out of the Quit-Rents of the said Colony, now remaining in the Hands of *William Bird, Esq;* Our Auditor, or in whatsoever other Hands the same now is, for Our Use within the said Colony: And therefore, We command and firmly enjoin the said Auditor, or any other Person with whom the said Money is deposited, or who is obliged to pay the same, immediately upon Sight of these our Letters Patents, to pay, or cause to be paid the said Sum of One thousand nine hundred eighty five Pounds, Fourteen Shillings and Ten Pence, to the said *Francis Nicholson, William Cole, &c.* or the major Part of them, or of the longest

To defray the Charges of building the College, and supporting the President and Masters, their Majesties

grant to the Trustees the Sum of 1985 l.

14 s. 10 d.

in the Hands of the Auditor,

who is required to pay the same to the said Trustees.

Rivers of them, or to their Attorney, in that
 part lawfully constituted, without any other
 Warrant, Mandate or Precept to be obtained
 or expected from Us, to be laid out and ap-
 plied about and towards the building, erect-
 ing and furnishing of the said College, and to
 no other Use, Intent or Purpose whatsoever.
 And further XV. Seeing also, by a certain Act of Par-
 liament made in the Twenty-fifth Year of the
 Reign of our Royal Uncle Charles the Second
 of Blessed Memory, intituled, *An Act for the*
Encouragement of the Greenland and Eastland
Trades, and for better securing the Plantation
Trade, it was Enacted, That after the First
 Day of September, in the Year of our Lord
 One Thousand Six Hundred Seventy Three,
 if any Ship which by Law might trade in any
 of the Plantations, should come to any of
 them to load and take on board Tobacco,
 or any other of the Commodities there enume-
 rated, and if Bond were not first given, with
 one sufficient Surety, to carry the said To-
 bacco to *England, Wales,* or the Town of
Berwick upon Tweede, and to no other Place,
 and there to unload and put the same on
 Shore, (the Dangers of the Sea only excep-
 ted) in such case there should be paid to our
 said Uncle, and his Heirs and Successors,
 one Penny for every Pound of Tobacco so
 loaded and put on board, to be levied, col-
 lected and paid in such Places, and to such
 Officers and Collectors as should be appoint-
 ed in the respective Plantations, to collect,
 levy and receive the same, and under such
 Penalties, both to the Officers and upon the
 Goods,

Goods, as for Non-payment of his Majesty's Customs in *England*: And if it should happen, that any Person or Persons who are to pay the said Duties, shall not have ready Money to satisfy the same, that the Officers who are appointed to collect the said Duties, shall, in lieu of the said Money, take such a Proportion of Tobacco, as may amount to the Value thereof, according to the usual Rate of the said Commodity in such Plantation respectively; all which things are to be ordered and disposed, and these several Duties are to be caused to be levied by the Commissioners of our Customs in *England* for the Time being, under the Authority and Direction of the Lord Treasurer of *England*, or the Commissioners of the Treasury for the Time being, as by the said Act of Parliament, amongst other things therein contained, Reference being thereto had, doth more fully appear; We, of Our more bounteous Grace, meer Motion, and certain Knowledge, have given and granted, and for Us and our Successors, do give and grant to the said *Francis Nicholson, William Cole*, and the other Trustees above-mentioned, and their Heirs for ever, the said Revenue of one Penny for every Pound of Tobacco in *Virginia* or *Maryland* in *America*, or either of them, that shall be so loaded and put on board, as is abovesaid, and the next Produce which shall accrue in *England* or elsewhere, by selling there of the Tobacco that shall be collected in our Colonies of *Virginia* and *Maryland*, in lieu of the Penny that ought to be paid for

CHARTER for

But the
Commissioners to ap-
point the
Collectors
of the Duty.

for every Pound of Tobacco so loaded and
put on board, as is abovesaid. Provided
always, that the Commissioners of our Cus-
toms in England for the Time being, shall
name and appoint all the Collectors and
Receivers of the said Money and Tobacco,
and their Inspectors and Controulers from
Time to Time, as they have hitherto done;
and that the Salaries of the said Collectors,
Receivers and Controulers shall be deducted
and paid out of the said Revenue; and that
the said Francis Nicholson, William Cole, &c.
and their Successors, as also the President
and Masters, or Professors, of the said Col-
lege, and their Successors for the Time being,
shall be obliged to receive and observe all
such Rules, Orders and Instructions, as shall
be transmitted to them from Time to Time
by the said Commissioners of our Customs in
England for the Time being, under the In-
spectation and Direction of the Lord Treasurer,
or the Commissioners of our Treasury in En-
gland for the Time being, for the better and
more exact collecting of the said Duty, as by
the said Act of Parliament, Reference being
thereto had, is more particularly directed
and appointed; but with this express Inten-
tion, and upon the special Trust and Confid-
ence we place in the said Francis Nicholson,
William Cole, and the rest of the foresaid
Trustees, that they, and the longest Livers
of them, and their Heirs, shall take, hold
and possess the said Revenue of a Penny a
Pound for every Pound of Tobacco aforesaid,
with all its Profits, Advantages and Emolu-
ments,

And the
Trustees to
observe
such In-
structions
as shall be
transmitted
to them by
the Com-
missioners
of the Cus-
toms in
England,
by Direction
of the
Lords of
the Treas-
ury.

And the
said Trust-
ees to re-
ceive the
said Penny
a Pound,
to apply the

ments, to apply and lay out the same, for ^{same for} building and furnishing of the Edifice, and o- ^{building} ther Necessaries for the said College, till the ^{the College.} said College shall be actually erected, founded and established; and with this express Inten- tion, and upon the special Trust and Confi- dence, that so soon as the said College shall be erected and founded, according to our ^{And when} Royal Purpose, the said Trustees, and the ^{built, to} longest Livers or Liver of them, and his or ^{grant the} their Heirs or Assigns, shall, by good and ^{same to the} sufficient Deeds and Assurances in Law, ^{President} and Ma- give, grant and make over to the President ^{sters of the} and Masters, or Professors, of the said Col- ^{said Col-} lege, this whole Revenue, with all its Profits, ^{lege, and} Issues and Emoluments before mentioned, ^{their Suc-} or so much thereof as shall not have been ^{cessors for} expended and laid out for the aforesaid Uses, ^{ever,} to be held, possessed and enjoyed, by the said President and Masters, or Professors, and their Successors for ever.

XVI. And also of our special Grace, meer Motion and certain Knowledge, we have given and granted, and by these Presents, for us, our Heirs and Successors, do give and grant to Francis Nicholson, William Cole, and the rest of the said Trustees, and to the longest Livers or Liver of them, and to his or their Heirs, the Office of Surveyor Ge- ^{The Office} neral of our said Colony of Virginia, if the ^{of Surveyor} said Office be now void, or whensoever and ^{General} how often soever it shall hereafter fall void, ^{granted to} to be had, held and executed, with all its ^{the said} Issues, Fees, Profits, Advantages, Conveni- ^{Trustees,} encies ^{to officiate} by their

*Officers
and Substi-
tutes until
the College
is erected.*

encies, Liberties, Places, Privileges and Pre-eminences whatsoever, belonging to the said Office, in as ample Form and Manner as any other Person who has heretofore had, executed or possessed the said Office, ever had, received and enjoyed, or ought to have, receive and enjoy by the said Trustees and their Heirs, or by such Officers and Substitutes as they, or the major part of them, or of the longest Livers of them, or of their Heirs, shall, from time to time, nominate and appoint, until the said College shall be actually founded and erected; but with this express Intention, and upon this special Trust and Confidence which we place in the said Francis Nicholson, William Cole, and the rest of the said Trustees, that they, and the longest Livers of them, and their Heirs, shall give back and restore to the President and Masters or Professors of the said College for the time being, whatsoever Money remains in their Hands, that has risen from this Office during their Administration, not yet laid out upon the building of the said College, so soon as the said College shall be actually erected and founded: And after the said College shall be actually founded and erected, we will that the said Office of Surveyor General, if it be then void, and as often as it shall be void for the time to come, shall be had, held and executed, with all its Profits and Appurtenances above-mentioned, by the said President and Masters or Professors, and their Successors for ever: Provided always, That the said Francis Nicholson, and

*And after
the College
is erected,
the said
Office to be
held by the
President
and Ma-
sters.*

and the rest of the above-mentioned Trustees, or the major part of them, or of the longest Livers of them, and the said President and Masters or Professors for the time being, shall, from time to time, nominate and substitute such and so many particular Surveyors for every County of our Colony of Virginia, as our Governor in chief, and the Council of our said Colony of Virginia for the time being, shall think fit and necessary.

But they to nominate such Deputies as the Governor and Council of Virginia shall think fit.

XVII. And also, of our more bounteous special Grace, meer Motion, and certain Knowledge, we have given, granted, and confirmed, and by these Presents, for us, and our Successors, do give, grant and confirm to the said Francis Nicholson, William Cole, and the rest of the Trustees above-mention'd, ten thousand Acres of Land, not yet legally occupied or possessed by any of our other Subjects, lying and being on the South Side of the Black-water Swamp; and also other ten thousand Acres of Land, not yet legally taken up or possessed by any of our other Subjects, lying and being in that Neck of Land commonly call'd Pamunkey Neck, between the Forks, or Branches, of York River: Which twenty thousand Acres of Land we will have to be laid out and measured in the Places above-mentioned, at the Choice of the said Francis Nicholson, William Cole, and the rest of the forementioned Trustees, or the major part of them, or of the longest Livers of them, to

And their Majesties grant to the Trustees 10000 Acres of Land on the South Side of Black-water Swamp And 10000 Acres on the Neck of Land call'd Pamunkey Neck.

CHARTER for

to be had and held by the said *Francis Nicholson, William Cole*, and the rest of the above-mentioned Trustees, and their Heirs for ever, but with this Intention, and upon special Trust and Confidence, that the said *Francis Nicholson, William Cole*, and the rest of the said Trustees, or the major part of them, or of the longest Livers of them, so soon as the said College shall be actually founded and established, shall give, grant, lett, and make over the said twenty thousand Acres of Land to the said President and Masters or Professors of the said College, to be had and held by them and their Successors for ever, by Fealty, in free and common Soccage, paying to us and our Successors, two Copies of *Latin Verses* yearly, on every Fifth Day of *November*, at the House of our Governor or Lieutenant Governor of *Virginia* for the time being, for ever, in full Discharge, Acquittance and Satisfaction of all Quit-Rents, Services, Customs, Dues and Burdens whatsoever, due or to be due to us or our Successors, for the said twenty thousand Acres of Land, by the Laws or Customs of *England or Virginia*.

The President and Masters impowered to nominate one Person to be present in the

XVIII. And also, of our especial Grace, certain Knowledge, and meer Motion, we have given and granted, and by these Presents for us and our Successors, do give and grant to the said President and Masters or Professors of the said College, full and absolute Power, Liberty, and Authority to nominate, elect and constitute one discreet and

and able Person of their own Number, or of the Number of the said Visitors or Governors, or lastly, of the better sort of Inhabitants of our Colony of *Virginia*, to be present in the House of Burgesses of the General Assembly of our Colony of *Virginia*, and there to act and consent to such Things as by the common Advice of our said Colony shall (God willing) happen to be Enacted.

XIX. And further, it is our Pleasure, That such further Confirmations and Rati- fications of the Premises shall be granted from time to time by us, our Heirs and Successors, to the said *Francis Nicholson*, and the rest of the Trustees above-mentioned, and to their Successors, or to the President and Masters or Professors of the said College, or to their Successors for the time being, upon their humble Petition, under the Great Seal of *England*, or otherwise, as the Attorney General of us, our Heirs or Successors for the time being shall think fit and expedient.

XX. In Testimony whereof, we have caused these our Letters to be made Patent; Witness our selves at *Westminster*, the eighth Day of *February*, in the fourth Year of our Reign.

By a Writ of the Privy Seal.

Pigott.

For a Fine in the Haniper, Five Marks.

Rawlinson.
Hutchins.

House of
Burgesses
of the Ge-
neral As-
sembly.

Further
Confirma-
tion of the
Premises
to be gran-
ted from
Time to
Time to
the Tru-
stees and
their Suc-
cessors, or
to the Pre-
sident and
Master of
the said
College,

and their
Successors,
as the At-
torney Ge-
neral of
England
for the
Time be-
ing shall
think fit.

